

TO
THE RIGHT HONOURABLE
SIR JAMES R. G. GRAHAM,

BART., M. P.,

ONE OF HER MAJESTY'S PRINCIPAL SECRETARIES OF STATE,

This Work

ON A BRANCH OF THE LAW

OVER WHICH, IN ITS EXECUTIVE DEPARTMENT,

HE PRESIDES

WITH SUCH DISTINGUISHED ABILITY,

IS,

BY HIS PERMISSION,

VERY RESPECTFULLY DEDICATED

BY

THE AUTHOR.

P R E F A C E.

IN considering the important and manifold duties of a Justice of the Peace out of Sessions, it occurred to the Author that a work upon the plan of Burn's Justice, avoiding its prolixity, but somewhat more comprehensive than the different manuals and pocket-books on this subject, might, if carefully executed, be of great use to Magistrates in the various functions they are called upon to perform. The notion of such a work was first suggested to his mind, when he was requested a long time since by his lamented friend the Honourable George Lamb, while Under Secretary of State, to prepare for his use a Table of all the offences punishable by a Justice of the Peace on summary conviction, distinguishing those which required the jurisdiction of Two Magistrates. Other avocations, however, have compelled him thus long to delay the intention he had originally formed; and he now offers the work to the Magistracy, and his own Profession, with some fear of the responsibility he has incurred from a delay, which takes away the hope of pardon for any inaccuracy or inadvertence.

The present work is intended to comprise an abstract of the whole statute law, which in any way affects the Magistrate, either in his magisterial or judicial character, including a Digest of the Poor Laws. In the fulfilment of this intention, the work has been extended to a greater length than the Author first anticipated, having felt himself bound to give the statutable description of every offence in our criminal code, without which he conceives the work would have been imperfect. For, although a Magistrate out of sessions has no jurisdiction of a judicial

nature, in dealing with a charge of felony, yet, as he is entrusted with the discretionary power of bailing or committing the accused party, or of dismissing the charge altogether, it is most essential that he should be able to decide correctly, whether the facts charged against the accused amount in law to felony, and to what species or degree of felony. It has been therefore thought expedient in each case to give the very words of the statute which creates the felony, in order that the Magistrate may at one view determine, without reference to the act itself, whether the facts proved before him will justify him in committing the accused to take his trial for the offence imputed to him. In cases where the Magistrate acts judicially, there is still more reason that the statutable definition of the offence should be given verbatim, in order that he may be satisfied of his power to convict and punish the offender.

During the progress of the Author's labours, he has had occasion to remark some inconsistencies and defects in the construction of our criminal statute law, which perhaps it may not be considered out of place to notice in the preface to this work. In the first place, what must be striking to every common observer, is the cumbrous and verbose construction of our statutes, and the unnecessary repetition of enactment; and this is more especially found to be the case, whenever a statute gives any power of summary conviction to a Justice of the Peace. It would be therefore most desirable that some general law should be passed, declaring, that Justices should have the same powers in all cases of summary conviction; to prevent the necessity of loading every fresh act of parliament with a repetition of voluminous clauses, wherever a penalty is provided for the infringement of any of its enactments. A great portion of our statute book is encumbered with this needless tautology. Thus the 1 & 2 Will. 4, c. 37, which inflicts a penalty upon the employers of artificers for paying them their wages in goods, instead of money, contains no less than eight different clauses, occupying a space of two closely printed quarto pages,

for the purpose of declaring how the penalty is to be recovered, for compelling the attendance of witnesses, for levying the penalty by distress, and committing the offender for want of a sufficient distress, for declaring what shall be good service of a summons, and what a good form of conviction, for the return of the conviction to the quarter sessions, and for providing against defects of form in the conviction, order, or adjudication. Now all these different enactments, if proper to be inserted in the act above mentioned, would equally apply to every act giving a Magistrate summary jurisdiction over any offence; and yet they are more or less repeated in every statute inflicting a penalty recoverable before a Justice of the Peace. Again, where a statute gives a right of appeal from the decision of the Magistrate to the Quarter Sessions, which is done now almost in every case, a long prolix provision is introduced to define the conditions on which the party is permitted to appeal, varying however in several material particulars from the appeal clauses in other statutes, and perplexing alike both to the Magistrate, and to the party for whose benefit the appeal is intended. In some cases, the appeal is limited to the "next sessions after the conviction;" in others, to the "next sessions occurring after the expiration of one month," or "one calendar month from the time of the conviction," or "from the time of the cause of complaint," or "from the time such matter of appeal shall have arisen." In some cases, the party is required to enter into a recognizance "*forthwith*" to prosecute the appeal; in others, "ten days after the conviction;" sometimes he is bound to give "notice of his *intention* to appeal, and also of the *cause and matter thereof*," to the party appealed against, as well as to the Magistrate, *before* entering into the recognizance;—in other cases, the recognizance precedes the notice, and the notice itself is declared sufficient, if it merely state the *intention* of the party to appeal, without specifying the grounds of the appeal. Many other circumstances might be pointed out, which are not only harassing and perplexing to those ap-

pointed to administer the law, but in many cases operate so as to frustrate the very intention of the Legislature. A great relief would therefore be afforded to Magistrates, as well as to the ponderous volumes of our statutes, if there was some general act, like the 3 Geo. 4, c. 23 for facilitating summary proceedings before justices of the peace, (which, however, does not appear to have been much regarded by those afflicted with the legislative mania,) for the uniformity of *all proceedings* before Magistrates, in cases of summary conviction and the right of appeal.

It has been thought fit, also, in late years to give various rules in almost every statute, for the interpretation of the meaning of certain words occurring in the act, as in the 11 Geo. 4 & 1 Will. 4, c. 64, s. 32, to permit the sale of beer, which, among other definitions, declares that the word "justice" means a *justice of the peace*, and the word "penalty" a *fine of a pecuniary nature*. Some of these helps seem, certainly, rather unnecessary for any person versed in the English language, while others are very properly introduced to meet some decided cases on the construction of former acts of parliament. But, in order to prevent the ends of justice from being so often defeated by absurd quibbles and objections, as well as to save the needless repetition of such explanatory clauses in every fresh act of parliament, there is no reason why these different rules of construction should be confined to one, instead of being extended to every statute.

Another remarkable instance of needless repetition of enactment occurs in the 55 Geo. 3, c. 51, relating to county rates, the 22nd section of which makes a special provision that any warrant of distress for any penalty inflicted by that act may be executed, not only in the county in which the offence is committed, but in any other county, where any goods of the offender shall be found, the warrant being first indorsed by some Justice of the Peace of the latter county; and the 1 & 2 Geo. 4, c. 85, which was passed to amend the former act, has also a special enactment to the same effect. Now, if the framer of either of

these acts (which, by the bye, are in other respects not very cleverly drawn) had been more conversant with the law relating to the power of distress under a Magistrate's warrant, he would have known, that, more than twenty years before, a general provision on this subject was enacted by the 33 Geo. 3, c. 55, s. 3, for the express purpose of rendering more effectual warrants of distress issued by justices of the peace.

A little more care, too, than is often employed, would be of some advantage in drawing a statute, in order to carry into effect the intentions of the Legislature, which in many instances are entirely defeated by some one omission or oversight. Thus, the 48 Geo. 3, c. 75, providing for the interment of dead bodies cast on shore in cases of shipwreck, inflicts various penalties for disobeying the requisitions of the act, all which penalties may, by the eighth section, be levied by distress; but, although a general form of conviction is given by the ninth section, there is no where in the act any *express authority* given to a Magistrate to convict an offender, nor any declaration of the mode in which he is to be convicted. The framer of the act perhaps imagined, that a general form of conviction being given, as well as a power of distress, an authority to convict must necessarily be implied, regardless, or possibly not aware, of the rule of law, that in construing a penal statute, you cannot go by *inference*, and that when a *new* offence is created by an act of parliament, not amounting to a *Felony* or a *Misdemeanor*,—crimes of which the law has assigned the cognizance to well known tribunals in the country,—the statute ought not only to specify the offence with accuracy and precision, but also to declare with the same degree of particularity, who is to determine the guilt or innocence of the party charged with the offence.

The 55 Geo. 3, c. 194, which was passed to regulate the practice of apothecaries, affords also another curious specimen of carelessness in drawing acts of parliament. That statute imposes numerous penalties for the breach of the regulations

contained in the act. But the twenty-sixth section declares, that all penalties *above* 5*l.* must be sued for by an action at law, and that penalties which are *less* than 5*l.*, only, are recoverable before a justice of the peace. Now it so happens, that there is no penalty whatever, *less* than 5*l.*, imposed by any of the provisions of the statute; so that all the beneficial regulations of the act, for the breach of which a penalty of 5*l.* is imposed, may be disregarded with impunity; for they cannot be enforced on any offender, either by an action at law, or a summary conviction before a magistrate.

It is this carelessness in drawing acts of parliament, which has frequently rendered it necessary in the following session to pass another statute explaining or repealing an act made only in the former one, a practice very properly animadverted upon by Lord Melbourne in a sensible speech on this subject a few years ago in the House of Lords (*a*). An extraordinary instance of this last kind occurs in the 3 Geo. 4, c. 126, which professed to *consolidate* the whole law relating to turnpikes; and yet, in the very next session, it was thought necessary to pass not only a declaratory act (4 Geo. 4, c. 16) to explain a certain provision in the former one, but also another long act containing no less than ninety-four sections, repealing, amending, and explaining nearly the same number of sections in the former statute.

Another inconvenience too, and not a slight one, is found from the redundancy of enactment in our statute book. This is strikingly exemplified in the multiplicity of statutes for the regulation of workmen employed in different trades. One would have thought, that the same rules and regulations, with respect to the honesty and good conduct of workmen and artificers in one trade, were equally applicable to all. But the Legislature has acted upon a very different principle; for the statute book is crowded with innumerable laws defining the particular duties of master and servant in almost every known manufacturing trade. Instead

(a) See Lords' Debate, 23rd August, 1839.

of one comprehensive and well-digested statute, for the guidance of all master manufacturers and their workmen, generally,—the *hat-manufacturers*, the *clothiers*, the *silk-throwsters*, the *cotton-manufacturers*, the *clock and watch makers*, and various other artizans, have been each presented with a separate code, not applying exclusively to any peculiar process or mystery of their respective trades, but merely declaring and enforcing the relative duties of master and servant,—a subject not of limited, but of general, application. By a more recent statute, indeed, the 4 Geo. 4, c. 34, extended by the 10 Geo. 4, c. 52, the same regulations are enacted for the government of masters and workmen engaged in the trades above enumerated, as well as in some others, which were before dispersed through different acts. But there are various statutes still in operation, some of which relate only to one kind of manufacture, some to more than one species, and others again to several, but not all the different kinds,—which must be peculiarly embarrassing to those whose duty it is to interpret or administer the law between master and workman.

To advert to a more important branch of our Criminal Law—that relating to felonies, and the higher kinds of misdemeanors—the same partial legislation has been long permitted to prevail. Thus, the various acts relating to the revenue of the customs, excise, stamps, &c., and those regulating the pay of the army and navy, and of the pensioners of Greenwich and Chelsea Hospitals, and other public establishments, have all their respective *perjuries*, as well as separate clauses to punish each particular offence of *forgery* on those different Boards. Many local acts also, of very limited operation, have similar provisions. Now, why in the name of reason, is all this redundancy of legislation necessary? Why cannot one general provision be introduced into our law, making it perjury to swear falsely before any public officer, who is legally authorized to administer an oath, instead of a special clause being introduced for this.

purpose into every successive statute, which requires any matter to be verified on oath ?

In various acts, also, termed *local* and *personal*, for the erection of different public works, it has been thought necessary, from time to time, to create new and distinct felonies, with the view of better securing these works from destruction or damage ; and in some statutes—as, for instance, in that of the 9 Geo. 2, c. 29, s. 5, for the protection of *Westminster* bridge—it was made a capital felony to do any damage to the particular building thus specially favoured by the Legislature. So, in numerous instances, where a new joint stock company has been formed, or a new dock, bridge, or railway, has been projected, the adventurers have been permitted to have similar enactments in their respective acts of incorporation. This multiplying of felonies of a partial and local description is wholly repugnant to a wise system of legislation, in which the laws, and more especially those of a criminal nature, should be of general and universal application, and not be constructed for the purposes of some particular building, or to suit the fears or fancies of any particular set of individuals. The *general law* of the land itself should afford ample security to property of every description from malicious damage or mischief ; (a) and therefore it is greatly to be desired, that, however meritorious or useful any new project or undertaking may be, the Legislature will in future not think itself bound to create a new felony in the penal code, because it permits some new company of adventurers to make a fresh canal or railway.

Another great defect in our Criminal Law arises from including in the same statute many heavy penal enactments on sub-

(a) This has been effected in a very able manner by the 7 & 8 Geo. 4, c. 27, one of the Acts framed under the auspices of Sir Robert Peel (when at the head of the Home Department) for the consolidation and amendment of the Criminal Law. The Act itself was drawn by Mr. Gregson, who has proved on this, and many other important occasions, how peculiarly qualified he is for drawing Acts of Parliament.

jects quite foreign to the professed purpose of the Act, which, from its title or recital, would seem to be passed, wholly, *diverso intuitu*. Thus, in the 57 Geo 3, c. 127, which is entitled, "An Act to settle the share of *Prize Money*, *Droits of Admiralty*, and *Bounty Money*, payable to *Greenwich Hospital*, and for securing to the said Hospital all unclaimed shares of Vessels found derelict, and of seizures for Breach of Revenue, Colonial Navigation, and Slave Abolition Laws," and which merely recites, "that doubts had arisen, whether by virtue of the several laws then in force, the *per-centage* payable to Greenwich Hospital out of all *prize money*, *droits of admiralty*, and *bounty money*, continued to be payable after the expiration of hostilities," it is enacted by the fourth section, that, in order to bring into one act the several provisions made for the prevention and punishment of the crimes of personation and forgery, for the purpose of obtaining *prize-money*,—the false personation of any seaman, for the purpose of recovering, not only *prize-money*, but also *wages*, *pay*, *bounty-money*, *pension-money*, or other allowances of money, shall be a capital felony; thus imposing the punishment of death for offences, which were not only not comprehended within the title or recital of the act, but not within the purview of the particular section imposing that punishment. It is thus, that many of the most severe enactments of the criminal law were formerly crammed into statutes, the titles of which were perfectly foreign to such enactments; a mode of proceeding in legislation, which it was hoped had been longer obsolete than the year 1817, the date of the above statute.

The change and uncertainty in the measure of punishment allotted to the same offence, is another circumstance which must strike those who have occasion to refer to our criminal statutes. Thus, in the punishment imposed for the offence of forging the assay stamps on gold and silver plate, there has been a strange and unaccountable variation. It was first made liable merely to a *pecuniary penalty* by the 12 Geo. 2, c. 26, s. 2: then, and in the same reign too, the punishment of *death*

was annexed to it by the 31 Geo. 2, c. 32, s. 15; afterwards, by 13 Geo. 3, c. 59, s. 1, it was only punishable with transportation for fourteen years; then, by 24 Geo. 3, sess. 2, c. 53, s. 16, the penalty of *Death* was again inflicted on the offender; and finally, by the 38 Geo. 3, c. 69, (which however takes no notice whatever of the capital punishment inflicted by the preceding act), the punishment, as to forging the assay marks on *gold plate*, and on *gold plate* alone,—is once more reduced to transportation for seven years. For want of proper attention, however, in the framing of the last act of parliament, there is this absurd inconsistency in the law as it now stands,—namely, that while the forgery of the assay mark on *gold* plate, or *gilded* metal, is only punishable with *transportation for seven years*,—to forge the same mark upon *silver* plate, or metal *silvered over*, would by the 24 Geo. 3, sess. 2, c. 53, s. 16, (which cannot be said to be even impliedly repealed, as to this subject, by the 38 Geo. 3, c. 69), be still a capital felony,—were it not for the general provision of the recent forgery act, which takes away the punishment of death from all forgeries not specified in that act.

Before the Author concludes this part of his subject, he cannot help noticing a few instances of what he considers a great disproportion in the degree of punishment to crime in our statute law. First, with respect to the crime of rape,—the capital punishment for which has been lately abolished by the 4 & 5 Vict. c. 56, s. 3,—the Legislature has made no distinction whatever, as to the circumstances under which the crime is committed; so that however great a number of ruffians may be assisting each other in perpetrating and repeating the crime, and though accompanied with circumstances of the greatest cruelty and brutality (*a*), the offenders can only now be punished with transportation for life; a punishment which equally attaches to the offence of embezzling

(a) A most revolting case of this kind, in which no less than four bargemen were implicated, occurred not long ago upon the Western Circuit, the details of which must be fresh in the recollection of many of the Author's readers.

naval stores, one of certainly much less degree in atrocity than the former. It may be well, if this lenity is not productive of the same "terrible consequences" which Sir W. Blackstone tells us a former experiment of the same kind occasioned in the time of Edward the First, and which rendered it necessary in ten years afterwards to declare the offence a felony. (a)

The capital punishment, also, for forging a will, or a power of attorney to transfer stock, by which a whole family may be disinherited or ruined, has been lately abolished; and that species of forgery is now reduced to the same level with the offence of forging a bill of exchange or banker's cheque for 20*l*. Would it not seem more reasonable, that the punishment for the various kinds of forgery should be, as in the case of offences against the person, proportioned to the evil and injury which each particular degree or species of the offence may inflict upon society?

The offence of riotously destroying and utterly demolishing a church, or dwelling house, is by 4 & 5 Vict. c. 56, s. 2, only punishable with transportation for seven years, (b) while the simple fact of maliciously cutting any hop-binds, by 7 Will. 4 and 1 Vict. c. 90, s. 2 and 3, subjects the offender to transportation for fifteen years, or not less than ten years.

On the subject of the Poor Law, an important amendment was made by the legislature in the act of the last session, 5 & 6 Vict. c. 57, s. 7, enabling the Commissioners to form parishes into districts; so that paupers, seeking relief, may not have to travel a greater distance than four miles to the place of meeting of the board of guardians to obtain it; and some very salutary and useful orders have also been recently promul-

(a) 4 Bl. Com. 212.

(b) It is understood, that a bill is now pending in Parliament for apportioning a more due degree of punishment to this offence, namely, transportation for life, or not less than seven years, or imprisonment, with or without hard labour, not exceeding three years.

gated by the Poor Law Commissioners, as to the administration of medical relief, the proceedings of the board of guardians, and the duties of the relieving officer ; all of which will be found in the Appendix. Upon this difficult subject,—the management of the outdoor and indoor poor,—it hardly becomes the Author to offer an opinion, with his limited experience. As far, however, as his observation has gone, he cannot help thinking that it would be both just and expedient to extend the system of outdoor relief to those who are unable to work from impotency, or illness, or from real misfortune occasioned by no bad conduct of their own ; and that the magistrate ought to have, more especially in cases of urgent distress, and of casual poor, a stronger control over the conduct of the relieving officers and the masters of workhouses, subject of course to any appeal to the Poor Law Commissioners.

With respect to the law of settlement, that fertile source of litigation and expense between contending parishes,—it certainly does not appear, that the provisions of the eighty-first section of the Poor Law Act, which were intended, no doubt, to prevent these evils, have in any way effected that desirable purpose, but, on the contrary, are still likely to produce a rich harvest of appeals and cases to the Quarter Sessions and Westminster Hall. By the terms of the section above referred to, the overseers of a parish appealing against an order of removal are required to send to the overseers of the respondent parish a statement in writing under their hands of the grounds of appeal, in default of which the appellant parish cannot be heard in support of the appeal ; and neither the respondent, nor the appellant, parish can go into evidence of any other grounds of removal, or of appeal against the order, than those set forth in the order of removal, the examination on which the order was made, or such statement of the grounds of appeal. When the point of construction as to the meaning of this section was first brought before the Court of Queen's Bench, that Court decided that a notice of appeal, stating, as the

grounds of appeal, that the pauper was not settled in the appellant parish, but that he was settled in the removing parish, was a sufficient notice of the grounds of appeal, within the meaning of the section, so as to draw the attention of the respondent parish to the settlement on which the appellants meant to rely (a). But when the point came afterwards before the Court, the judges then held, that such a notice was too general, and that it must condescend to more particulars, although it need not actually set out the evidence by which the facts were to be proved (b). And in subsequent cases, the Court has even gone further, and held, that, although a notice of appeal stated in plain terms, that the pauper gained a settlement in another parish by renting a tenement there for a year, at the annual rent of 15*l.*, and by occupying it the whole of that period, and paying 10*l.* rent, the notice was nevertheless bad, because it did not describe the *situation* of the premises, or give the *landlord's name* (c). In the construction of the clause, also, as regards the examination of the pauper before the removing justice, the Court has decided that the sessions must reject evidence of any grounds of removal, which do not appear, on the face of the examination, to have been proved before the justice, if the defect of evidence be pointed out by the notice of objection; and that, although an examination may set forth facts which show an actual settlement, yet if it does not disclose any legal evidence of such facts, it is a good ground of appeal against the order of removal (d).

It is to be lamented, that the learned judges of the Court of Queen's Bench did not adhere to their original opinion; for the result of their subsequent decisions has been to open a wide door to parochial litigation and expenditure; and it now ab-

(a) *R. v. Justices of Cornwall*, 5 Ad. & E. 138; 1 N. & P. 144.

(b) *R. v. Justices of Derbyshire*, 6 Ad. & E. 885; 1 N. & P. 703.

(c) *R. v. Justices of Bridgewater*, 10 Ad. & E. 693; 1 G. & D. 265.

(d) *Reg. v. Ecclesall Bierlow*, 11 Ad. & E. 601; 1 G. & D. 160; *Reg. v. Lydeard St. Laurence*, 11 Ad. & E. 616; 1 G. & D. 191.

solutely requires all the craft and astuteness of a special pleader to frame the examination of a pauper before a country Magistrate, or a notice of appeal from a parish overseer; the validity of every order of removal being now determined upon some ingenious and subtle objection, either to the form of the examination, or the statement of the grounds of appeal.

The Author begs to take this opportunity of offering his thanks to Mr. John Shaw Lefevre, the late chief Poor Law Commissioner, and to Mr. Lunley, the Assistant Secretary of that Board, for their kindness in affording him every information he could desire connected with the duties of their office.

*Chancery Lane,
June 8th, 1843.*

P. S. The reader is requested, when he has occasion to consult this work, to refer to the general Index at the end, as some alterations which have been made in the law during the progress of the work, as well as some few omissions, have been supplied in the Addenda.

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A

PRACTICAL

GUIDE TO MAGISTRATES

OUT OF SESSIONS.

Abduction of Women.

FORCIBLE *Abduction, on account of Property.*]—By 9 Geo. 4, c. 31, s. 19, where any woman shall have any interest, whether legal or equitable, present or future, absolute, conditional, or contingent, in any real or personal estate; or shall be an heiress presumptive, or next of kin, to any one having such interest; if any person shall, from motives of lucre, take away or detain such woman against her will, with intent to marry or defile her, or to cause her to be married or defiled by any other person;—*Felony; Transportation for life, or not less than seven years; or imprisonment, with or without hard labour, not exceeding four years.*

By sect. 30, Accessories before the fact are liable to transportation for fourteen years, or not less than seven; or imprisonment, with or without hard labour, not exceeding three years; and Accessories after the fact, to imprisonment, with or without hard labour, not exceeding two years:

Abduction of Girls under Sixteen.]—By sect. 20, if any person shall unlawfully take, or cause to be taken, any unmarried girl, being under the age of sixteen years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her;—*Misdemeanor; Fine, or imprisonment, or both.*

And see further 1 Dea. Crim. L. p. 3.

1. *Commitment of an Offender for the Abduction of a Woman on account of her Property.*

Lancashire, } J. R., esq., one of her Majesty's justices of the peace for the said
to wit. } county, to the constable of —, in the said county, and to the keeper
of the common gaol at Lancaster in the said county.

These are to command you the said constable, in her Majesty's name, forthwith to deliver into the custody of the said keeper of the said common gaol the body of E. W., charged this day before me, the said justice, on the oath of J. T. and others, for that he the said E. W., on the — day of —, in the year of our Lord —, at Liverpool, in the said county, feloniously, and from motives of lucre, did take away and detain one S. T. against her will, she the said S. T. being then a woman having an interest in certain real estate, with intent to marry her the said S. T., against the form of the statute in that case made and provided. And you, the said keeper, are hereby required to receive the said E. W. into your custody in the same common gaol, and him there safely keep, until he shall be thence delivered by due course of law. Given under my hand and seal, this — day of —, in the year of our Lord —.

J. N. (L. S.)

2. *Commitment for the Abduction of a Girl under Sixteen.*

Lancashire, } [As in the former precedent to the description of the offence, which
to wit. } should be stated thus:] for that he the said E. W., on the — day of
—, in the year of our Lord —, at Liverpool, in the said county, did take one
S. T. out of the possession and against the will of J. D., the person having the lawful
care and charge of her, she the said S. T. then and there being an unmarried girl, and
under the age of sixteen years, to wit, of the age of fifteen years, against the form of
the statute in that case made and provided: And you the said keeper, &c. [as before.]

Abettors—See Accessories.

Abortion.

BY 7 Will. 4 & 1 Vict. c. 85, s. 6, whosoever, with intent to procure the miscarriage of any woman, shall unlawfully administer to her, or cause to be taken by her, any poison, or other noxious thing, or shall unlawfully use any instrument, or other means whatsoever, with the like intent;—*Felony; Transportation for life, or not less than fifteen years; or imprisonment, not exceeding three years, with or without hard labour, or solitary confinement.*

And see 1 Dea. Crim. L. p. 8.

Commitment, under the 7 Will. 4 & 1 Vict. c. 85, s. 6, for administering Drugs to procure Abortion.

Kent, } J. P., esq., one of her Majesty's justices of the peace for the said
to wit. } county, to the constable of — in the said county, and to the keeper
of the common gaol at Maidstone in the said county.

These are to command you the said constable, in her Majesty's name, forthwith to

deliver into the custody of the said keeper of the said common gaol the body of A. B., charged this day before me, the said justice, on the oath of C. D., with having feloniously caused to be administered to, and taken by, the said C. D., a large quantity of a certain noxious thing called savin, with intent then and there, and thereby, to procure the miscarriage of the said C. D., against the form of the statute in such case made and provided. And you, the said keeper, are hereby required to receive the said A. B. into your custody in the same common gaol, and him there safely keep, until he shall be thence delivered by due course of law. Given under my hand and seal, this — day of —, in the year of our Lord 1841. J. P. (L. S.)

Abusive Language.

BY 2 & 3 Vict. c. 47, s. 54, every person who, within the limits of the Metropolitan Police District, shall, in any thoroughfare or public place, use any threatening, abusive, or insulting words or behaviour, with intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned, is liable to a penalty not exceeding 40s. And any constable of the Metropolitan Police Force may take into custody, without warrant, any person who shall commit any such offence within his view.

For the proceedings on a summary conviction for this offence, see *post*, **Metropolitan Police**.

Accessories.

AN *accessory* is one guilty of felony, not as a principal, but by participation, command, advice, or concealment. But in high treason there are no accessories, for all concerned are principals. Accessories are either *before*, or *after*, the fact. An *accessory before the fact* is one, who, being absent at the time of the commission of the offence, procures, counsels, commands, or abets another person to commit a felony; and herein he is distinguishable from a *principal in the second degree*, who is *present, aiding, and assisting* in the commission of the crime, though he need not be actually and visibly present; for if he keep within hearing, or upon watch, for the purpose of rendering assistance to the principal offender, he is then *legally present* (a). Both principals in the second degree, and accessories before the fact, are generally punishable in the same manner as principals.

By 7 Geo. 4, c. 64, s. 4, accessories *before* the fact may be indicted either along with the principal felon, or separately, as for a

(a) 2 Hawk. c. 29, s. 7, 8.

substantive felony, whether the principal shall, or shall not, have been previously convicted.

In *manslaughter* there are no accessories *before* the fact; for this offence is considered in law sudden and unpremeditated. So, in *mis-demeanors*, there are no accessories *before* the fact; for all may be indicted and punished as principals (*a*).

An *accessory after the fact* is one, who, knowing a felony to have been committed by another, receives, retains, comforts, or assists the felon (*b*). And these, with the exception of receivers of stolen goods, are subjected to a less degree of punishment than the principal felon.

1. *Information to ground a Warrant to apprehend a Principal in the second degree.*

Kent, } The information and complaint of A. B. of —, in the county of Kent,
to wit. } labourer, taken upon oath this — day of —, in the year of our Lord
—, before me, J. P., esq., one of her Majesty's justices of the peace in and for the
county aforesaid: The said A. B. upon his oath saith, that on, &c. [*Principals in the
second degree may be described as having actually committed the offence, the same as
principals in the first degree. In felony, where the principals in the first and second degrees
are committed at the same time, the offence of the principal in the second degree may,
after stating the offence of the principal in the first degree, be described thus:*] And that
the said C. D. [*the principal in the second degree*] feloniously was then and there
present, aiding, abetting, and assisting the said F. G. to do and commit the said felony.
And thereupon he the said A. B. prayeth that justice may be done in the premises.

Sworn before me, J. P.

A. B.

2. *The like, against an Accessory before the Fact.*

Kent, } The information and complaint of A. B. of &c., yeoman, taken upon
to wit. } oath before me, J. P., esq., one of her Majesty's justices of the peace in
and for the said county, this — day of —, in the year of our Lord 1841. The
said A. B. saith that [*the offence should be described according to the fact; in burglary
it may be thus:*] on the — day of — last, the dwelling-house of this deponent,
situate in the parish of —, in the said county, was, about the hour of twelve, in the
night of the same day, broken and entered by some person or persons; and that six
silver spoons, the property of him the said A. B., were then and there feloniously
stolen and carried away; and that he hath just cause to suspect, and doth suspect, that
C. D., late of —, labourer, did commit the said felony; and that E. F., late of —
aforesaid, labourer, did counsel, hire, procure, or command the said C. D. to commit
the said felony. And thereupon he the said A. B. prayeth that justice may be done in
the premises.

A. B.

Sworn before me, J. P.

3. *The like, against an Accessory after the Fact.*

Kent, } The information and complaint &c. [*as in the last precedent, to the end of
to wit. } the statement of the offence of the principal*]; and that the said A. B. hath

cause to suspect, and doth suspect, that E. F., late of —, in the county of —, labourer, well knowing the said C. D. [*the principal*] to have done and committed the said felony as aforesaid, afterwards him the said C. D. did feloniously, and of his malice aforethought, receive, harbour, and maintain in the dwelling-house of him the said E. F. at &c. And thereupon the said A. B. prayeth that justice may be done in the premises.

A. B.

Sworn before me, J. P.

4. Warrant to apprehend an Accessory before the Fact.

Kent, } To the constable of —, in the county of Kent, and to all other con-
to wit. } stables and peace-officers in the said county.

Whereas, A. B., of the parish of —, in the said county, yeoman, hath this day made oath before me, J. P., esq., one of her Majesty's justices of the peace in and for the said county, that he hath just cause to suspect, and doth suspect, that C. D., late of —, labourer, did, on the — day of — last, about the hour of twelve in the same day, break and enter the dwelling-house of him the said A. B., situate at &c., and did then and there feloniously steal, take, and carry away six silver spoons, the property of him the said A. B.; and that this deponent hath also just cause to suspect that E. F., late of — aforesaid, labourer, did counsel, hire, procure, or command the said C. D. to commit the said felony: These are therefore, in her Majesty's name, to charge and command you forthwith to apprehend and bring before me the said C. D. and E. F. to answer the said complaint, and to be further dealt with according to law. Given under my hand and seal, this — day of —, 1841. J. P. (L. s.)

5. The like, to apprehend an Accessory after the Fact for harbouring the Principal.

Kent, } To the constable of &c. [*as in the last form*].
to wit. }

Whereas, C. D., of &c., stands charged before me, J. P., esq., one of her Majesty's justices of the peace in and for the said county, on the oath of A. B., with having [*here state the offence of the principal, as in the information*]: And whereas the said A. B. hath this day also made oath before me, that he hath cause to suspect, and doth suspect, that E. F., of &c. aforesaid, labourer, since the said felony was committed, hath received, harboured, and maintained the said C. D. in the dwelling-house of the said E. F. at — aforesaid, he the said E. F. well knowing the said C. D. to have committed the said felony: These are therefore &c. [*as in the last form*].

6. The like, to apprehend an Accessory after the Fact, for receiving stolen Goods.

[*The same as in last precedent, except stating the offence of the accessory, as follows:*] And also that he the said A. B. hath cause to suspect, and doth suspect, that E. F., of —, in the said county, labourer, hath feloniously received the said silver spoons, knowing the same to have been feloniously stolen: These are therefore &c.

7. Commitment of an Accessory before the Fact, with the Principal.

Kent, } To the keeper of her Majesty's gaol at Maidstone, for the county of
to wit. } Kent, or his deputy.

Receive into your custody the bodies of C. D. and E. F., herewith sent you, who have been brought before me, J. P., esq., one of her Majesty's justices of the peace

in and for the said county, by G. H., constable of the parish of —, in the said county, the said C. D. being charged, upon the oath of A. B., with having, on the — day of —, at the parish of —, in the said county, feloniously and burglariously broken and entered his dwelling-house, situate in the parish of —, in the said county, and having then and there feloniously stolen, taken, and carried away six silver spoons, the property of the said A. B.; and the said E. F. being also charged, upon the oath of the said A. B., with having counselled, hired, procured, and commanded the said E. F. to commit the said felony and burglary: And you are hereby required to safely keep the said C. D. and E. F. in your custody, until they shall be discharged by due course of law. Given under my hand and seal, at —, in the said county, this — day of —, 1841. J. P. (l. s.)

8. Conviction for receiving stolen Property, where the offence of the Principal is punishable by Summary Conviction, under the 7 & 8 Geo. 4, c. 29, ss. 39, 60.

Kent, } Be it remembered, that on &c., at &c., C. D. is convicted before me,
to wit. } J. P., esq., one of her Majesty's justices of the peace in and for the said
county, for that he the said C. D. on &c., at &c., one chestnut tree, of the value of 5s.,
the property of A. B., by a certain ill-disposed person unknown then lately before
unlawfully stolen, taken and carried away from a certain close of the said A. B. in
which the same was then and there growing, did unlawfully receive from such ill-
disposed person, he the said C. D. then and there well knowing the said tree to have
been unlawfully come by as aforesaid, against the form of the statute in that case made
and provided: And I the said J. P. do therefore adjudge the said C. D., for his said
offence, to forfeit and pay the sum of 5*l.* (a) over and above the value of the said tree
so stolen, and the further sum of 5s., being the value of the said tree, and also to pay
the sum of 3s. for costs (b); and, in default of the immediate payment of the said
sums, to be imprisoned in the House of Correction at Maidstone, in the said county,
and there kept to hard labour for the space of — calendar months (c), unless the
said sums shall be sooner paid: And I direct that the said sum of 5*l.* shall be paid to
M. O., one of the overseers of the poor of the said parish in which the offence was
committed (d), to be applied by him according to the directions of the statute in that
case made and provided; and that the said sum of 5s. shall be paid to the said A. B. (e):
And I order that the said sum of 3s. for costs shall be paid to the said A. B. Given
under my hand and seal the day and year first above-mentioned. J. P.

9. Conviction of the Abettor or Procurer of an offence, punishable by 7 & 8 Geo. 4, c. 29, on Summary Conviction.

[For aiding or abetting an offence, the offender may be convicted in the same form as if he had actually committed it. For counselling or procuring another to commit the offence, the party may be convicted with the principal; stating] that C. D. and E. F. are convicted before me J. P., one &c., for that the said C. D. on &c., at &c., [stating the offence of the principal in the ordinary way, and then stating the offence of the

(a) See 7 & 8 Geo. 4, c. 29, ss. 39, and 60.

(b) See sect. 71.

(c) See sect. 67.

(d) See sect. 66.

(e) If the owner, however, has been examined in proof of the offence, then the value of the property must be ordered to be paid to the overseer. See sect. 66.

procurer thus,] and for that the said E. F., before the said offence was so committed as aforesaid, to wit, on &c., at &c. aforesaid, did unlawfully counsel and procure the said C. D. to do and commit the said offence in manner and form aforesaid, against the form of the statute in that case made and provided: I the said J. P. do therefore adjudge &c.

Accomplices.

AN accomplice is one of many equally concerned in a felony; the term being generally applied to those who are admitted to give evidence against their fellow criminals, when other evidence is not sufficient to convict them. An accomplice may be admitted a witness, (or king's evidence, as he is generally termed,) 1st, under the provisions of the particular statute relating to the offence; 2nd, by special proclamation in the Gazette, or otherwise, when pardon is promised to some one offender, upon certain conditions; and 3rd, by the discretionary authority of the committing magistrate. Those within the two first classes have a *right* to pardon; but those within the last are not entitled to pardon, as of *right*, though they have nevertheless an equitable title to a recommendation for the king's mercy, if they make a full and fair confession of the truth.

And see further 1 Dea. Crim. L. p. 390.

Actions.

1. *Against Justices.* | 2. *Against Constables.*

I. *Actions against Justices.*

WHEN a magistrate is guilty of oppression and is actuated by malicious motives, or oversteps the limits of the authority vested in him by the law, he is liable not only to be punished by criminal information in the Court of Queen's Bench, but is also responsible to the injured party in an action for damages. But when he has jurisdiction over the subject-matter, he is then not liable to an action of *trespass* for what he does in the fair and honest exercise of the duties of his office (*f*). Nor is he liable to such an action for a mere mistake in a matter of law,—as for committing a party for *felony*, where the offence did not amount to a felony in point of law; the magistrate having power to investigate and commit as for a misdemeanor only (*g*). Where, however, he commits a party for an un-

(*f*) *Lowther v. Earl of Radnor*, 8 East, 113. (*g*) *Mills v. Collett*, 6 Bing. 85.

reasonable length of time for further examination, this has been held to be a void commitment, and to render him liable to an action of trespass (*h*). But, in order to prevent justices and constables from being harassed by vexatious suits, the law has provided certain formalities and restrictions as to proceeding against them by action.

Venue.—Thus, the 21 Jac. 1, c. 12, s. 5, declares, that all actions against magistrates, constables, or other public officers, or any person acting in their aid, for any thing done in the execution of their office, must be brought in the county in which the fact complained of was done; and they may plead the general issue, and give the special matter in evidence.

Limitation as to Time.—So the 24 Geo. 2, c. 44, s. 8, provides, that no action shall be brought against any justice, for any thing done in the execution of his office, or against any constable, or other officer, or person acting by his order and in his aid, unless commenced within six calendar months after the act committed.

In computing this period of six months, the day on which the act was committed is to be excluded; that is, if the act was done on the 14th December, the action may be commenced on the 14th June (*i*). And although the first commitment be beyond the six months, yet if any part of the imprisonment be within that period, the action will be in time (*h*).

Notice of Action.—By the 24 Geo. 2, c. 44, s. 1, no action can be brought against a justice, for any thing done by him in the execution of his office, until *notice in writing* of the intended writ or process shall have been delivered to him, or left at his usual place of abode, at least one calendar month before the suing out or serving the same; in which notice must be clearly and explicitly contained the cause of action, which the party suing claims to have against such justice; and on the back of the notice must be indorsed the name and place of abode of the plaintiff's *attorney or agent*.

By sect. 3, no plaintiff shall recover, where the action is grounded on any act of the defendant as a justice of the peace, unless it is proved upon the trial that the notice was duly given.

By sect. 5, no evidence shall be permitted to be given by the plaintiff of any cause of action, except what is contained in the notice.

(*h*) *Davis v. Capper*, 10 B. & C. 28.
(*i*) *Hardy v. Ryle*, 9 B. & C. 603.

(*k*) *Mussey v. Johnson*, 12 East, 67.

In reckoning the month from the service of the notice, the month begins on the day on which the notice is served.

Form of the Notice.—The notice must express the nature of the *writ*, or *process*, intended to be sued out, as well as the cause of action, that is, of the substantial ground of complaint against the justice (*l*); for a general notice of an action for an assault and false imprisonment is bad. But the notice need not specify the *form* of action; it is sufficient if it states the *writ*, or *process*, and the *cause of action* (*m*); neither is it necessary to name all the parties meant to be included in the action, nor to express whether the action is intended to be joint, or several (*n*). But if the notice does specify the form of action, a variance will be fatal; for notice of an action *on the case* will not support an action of *trespass* (*o*). A notice, however, of an action “for the said *imprisonment*,” after reciting the circumstances under which the party was imprisoned, will support an action for *assault*, *battery*, and *false imprisonment* (*p*). If the action be brought for any thing done under a conviction that has been *quashed*, the notice should in that case state it was done *maliciously*; for, under the provisions of the 43 Geo. 3, c. 141, (which will be presently referred to,) the action will not lie, unless it is expressly so alleged in the declaration.

In *indorsing* on the notice the attorney’s name and place of abode, it is sufficient to put the *initial* letter of his christian name, with his surname and place of abode in words at full length (*q*). He may also describe himself generally of the town in which he resides (*r*). But if his place of abode be in London, the particular street or place should be specified; and where he describes himself as of a place in *London*, which in fact is in *Westminster*, the notice will be bad (*s*). He may, however, describe himself of the place where he carries on his business, although he resides elsewhere (*t*).

Where the plaintiff brings an action, without giving notice, it lies on him to show that notice was not necessary (*u*).

Tender of Amends.—By 24 Geo. 2, c. 44, s. 2, the justice may, at any time within one calendar month after the giving of the notice, *tender amends* to the party complaining, or his agent or attorney, and may plead such tender in the action; which if the jury find sufficient,

(*l*) *Lovelace v. Curry*, 7 T. R. 631.

(*m*) *Sabin v. De Burgh*, 2 Campb. 196.

(*n*) *Base v. Jones*, 5 Pri. 168.

(*o*) *Strickland v. Ward*, 7 T. R. 631, note (*c*).

(*p*) *Robson v. Spearman*, 3 B. & Ald. 495.

(*q*) *Mayhew v. Locke*, 7 Taunt. 63; *James v. Swift*, 4 B. & C. 681.

(*r*) *Osborn v. Gough*, 3 B. & P. 551.

(*s*) *Stears v. Smith*, 6 Esp. 138.

(*t*) *Roberts v. Williams*, 3 Tyrw. 583.

(*u*) *Wedge v. Berkeley*, 6 Ad. & E. 663.

they shall give a verdict for the defendant. In which case, or in case the plaintiff becomes nonsuit or discontinues his action, or in case judgment is given for the defendant on demurrer, the justice is entitled to the like costs as under the general issue.

The plea of tender of amends must be pleaded specially; and the defendant may plead it, by leave of the court, with the general issue.

Payment of Money into Court.—By sect. 4, the justice may, by leave of the court, at any time before issue joined, *pay into court* such sum of money as he shall see fit; whereupon such proceedings shall be had as in other actions, where the defendant is allowed to pay money into court.

The court will permit the money to be paid into court, even after issue joined and notice of trial. He must however, in that case, move to withdraw his plea, for the purpose of pleading *de novo* (x).

Double Costs.—By 7 Jac. 1, c. 5, made perpetual by 21 Jac. 1, c. 12, if the verdict shall pass for the defendant in the action, or the plaintiff become nonsuit, or suffer discontinuance, the defendant is entitled to double costs. It does not seem to be necessary, in order to entitle the defendant to double costs under this statute, that any suggestion should be entered on the roll (y).

But (by 24 Geo. 2, c. 44, s. 7) if the plaintiff in the action should obtain a verdict, then if the judge shall in open court certify on the back of the record, that the injury for which the action was brought was wilfully and maliciously committed, the plaintiff is in that case entitled to double costs.

When the Justice is entitled to the benefit of these Statutes.—If the justice has jurisdiction over the subject-matter, and *bonâ fide* conceives himself to be acting officially, and in the execution of his duty, he will be entitled to the benefit of the above statutes, notwithstanding what he does is not precisely in the regular execution of his office; as where *one* justice acts in a matter where *two* only have jurisdiction (z), or where a magistrate detains goods on a suspicion of felony, and it is proved that he had no reasonable ground of suspicion (a), or although the subject-matter of complaint may arise out of his local jurisdiction (b).

But where a magistrate acts *colore officii*, and not *virtute officii*, that is, if he has no authority whatever to do the act complained of, he

(x) *Devaynes v. Boys*, 7 Taunt. 33;
Nestor v. Newcome, 3 B. & C. 159.

(y) *Fosbrook v. Holt*, 1 Tyrw. & G.

(z) *Weller v. Toke*, 9 East, 364.

(a) *Wedge v. Berkeley*, 6 Ad. & E. 663.

(b) *Prestidge v. Woodman*, 1 B. & C. 13.

cannot in this case claim the protection of the statute (*e*). So, if an action be brought against him for acting as a justice without a proper qualification, he cannot then insist upon the want of notice before the action brought; for such an action impeaches his right altogether to act in any way as a justice (*d*).

What is a Justification.—If a conviction be good upon the face of it, the production and proof of it at the trial will justify the convicting magistrate, under the plea of the general issue in an action of trespass, as well in respect of such facts stated therein as are necessary to give him jurisdiction, as upon the merits of the conviction (*e*). But in all cases the conviction must agree with the commitment, as to the nature of the offence charged in it; otherwise the conviction will be no justification of the imprisonment (*f*).

When an Action is brought against the Justice, after the Conviction is quashed.—By 43 Geo. 3, c. 141, s. 1, in all actions against justices on account of any *conviction*, or by reason of any thing whatsoever done or commanded to be done by any justice for the levying of any penalty, apprehending any party, or for carrying the conviction into effect, *in case the conviction shall be quashed*; the plaintiff, besides the value and amount of the penalty which may have been levied upon him, shall not be entitled to recover more than 2*l.* damages, nor any costs whatsoever, unless it is expressly alleged in the declaration in the action, which must be an *action upon the case* only, that the act was done *maliciously*, and without any reasonable and probable cause.

By sect. 2, the plaintiff shall not be entitled to recover any penalty, which shall have been levied, nor any damages or costs whatsoever; in case the justice shall prove at the trial that the plaintiff was guilty of the offence whereof he had been convicted, or on account of which he had been apprehended or had otherwise suffered, and that he had undergone no greater punishment than was assigned by law to such offence.

The last statute does not extend to protect justices against actions for acts of trespass, unless done on account of some *conviction* of the plaintiff in such action (*g*). And it is also confined to those cases, only, where the conviction has been *quashed* (*h*). It has been held also under this statute, that in an action against a magistrate for a malicious conviction, it is not sufficient for the plaintiff to show that

(*e*) *Alcock v. Andrews*, 2 Esp. 542.

(*d*) *Wright v. Norton*, Holt's N. P. Rep. 458.

(*e*) *Gray v. Cookson*, 16 East, 13.

(*f*) *Rogers v. Jones*, 3 B. & C. 409.

(*g*) *Massey v. Johnson*, 13 East, 67.

(*h*) *Gray v. Cookson*, 16 East, 13; *Rogers v. Jones*, 3 B. & C. 409.

he was innocent of the offence of which he was convicted; but he must also prove, from what passed before the magistrate, that there was a want of probable cause for the conviction (*i*).

II. *Actions against Constables.*

The constable, or other officer, who executes the warrant of a magistrate, is entitled to the same protection as the magistrate, under the before-mentioned statutes, with respect to the *venue, the limitation as to the time of bringing the action, the notice, the right to give the special matter in evidence under the plea of the general issue, and the right to double costs if a verdict be found for him.*

Demand of Warrant.—And by 24 Geo. 2, c. 44, s. 6, no action can be brought against any constable, or other officer, or any person acting by his order and in his aid, for any thing done in obedience to any warrant of any justice, until demand shall have been made or left at the usual place of his abode, by the party intending to bring the action, or by his attorney or agent, in writing, signed by the party demanding the same, *of the perusal and copy of such warrant*, and the same hath been refused or neglected for the space of six days after such demand. And in case, after such demand and compliance therewith, any action shall be brought against such constable, without making the justice, who signed and sealed the warrant, a defendant, the jury, on proof of such warrant at the trial, shall give their verdict for the defendant, notwithstanding any defect of jurisdiction in the justice. And if the action be brought jointly against the justice, and also against the constable, then, on proof of the warrant, the jury shall find for the constable, notwithstanding such defect of jurisdiction. And if the verdict shall be given against the justice, the plaintiff shall recover his costs against him, so as to include such costs as the plaintiff is liable to pay to the defendant for whom the verdict shall be found.

This act extends only to actions of *tort* (*k*), and to those cases only where a warrant has been actually granted (*l*); which, whether legal or not, a demand of it is equally necessary (*m*). The constable, however, is not bound to part with the warrant out of his possession (*n*); and he may, at any time *before* the action is commenced, furnish a

(*i*) *Burley v. Bethune*, 1 Marsh. 220.

(*k*) B. N. P. 24.

(*l*) 3 Esp. 226.

(*m*) *Price v. Messenger*, 2 B. & P. 158;
3 Esp. 96.

(*n*) 1 East, P. C. 319.

copy of the warrant, although such copy is not furnished till after six days from its being demanded (*o*).

But the officer can only claim the protection of the statute, where he acts in obedience to the warrant; and, therefore, where the magistrate cannot be liable, the statute does not apply (*p*). Nor is the constable protected in any case, where he exceeds the authority given him by the warrant (*q*). But, although the constable may even exceed his authority, he is not deprived of the benefit of the 8th section of the statute, as to the limitation of time for bringing the action,—which applies both to justices and constables,—provided he acts, *bonâ fide*, under an impression that he is discharging his duty (*r*). Neither does he lose the protection of the 21 Jac. 1, c. 12, s. 5, as to the *venue* being laid in the county where the fact is committed, although he apprehends a person on a charge of felony, without a warrant, and with very slight cause of suspicion (*s*). And, where any statute imposes particular restrictions on actions against officers, “for any thing done in pursuance of the act;” in that case, if the officer acts with a *bonâ fide* intention of discharging his duty under the act in question, he will be entitled to the benefit of its provisions in his favour (*t*).

—◆—
Actors—See **Playhouses**.

—◆— **Admiralty.**

BY 7 Geo. 4, c. 38, any justice of the peace may take examinations for offences committed within the jurisdiction of the admiralty, and cause the offenders to be apprehended and committed.

Warrant of a Justice to apprehend a person, on a Charge of Murder committed on the High Seas.

Admiralty of England, } To A. B., and all other constables and peace officers for the
to wit. } county of Middlesex, and city and liberty of Westminster.

Whereas, A. B., master of the ship, or vessel, called the *Britannia*, now lying in the London Docks, hath this day made oath before me, J. P. esq., one of her Majesty's justices of the peace for the county of Middlesex, and city and liberty of Westminster, that he hath just cause to suspect, and doth suspect, that C. D., late one of the seamen on board the said ship, did, on the — day of — last, on the high seas, within the jurisdiction of the admiralty of England, of his malice aforethought, feloniously

(*o*) *Jones v. Vaughan*, 5 East, 448.

330.

(*p*) *Money v. Leuch*, 3 Burr. 1766.

(*s*) *Streight v. Gee*, 2 Stark. Rep. 445.

(*q*) *Bell v. Oakley*, 2 M. & S. 259.

(*t*) *Theobald v. Crichmore*, 1 B. & Ald.

(*r*) *Parton v. Williams*, 3 B. & Ald. 227.

kill and murder one E. F., another seaman on board the said ship or vessel: These are therefore, in her Majesty's name, to charge and command you forthwith to apprehend the said C. D., and bring him before me, or some other justice of the peace for the county aforesaid, to answer the complaint, and to be further dealt with according to law. Given under my hand and seal, this — day of —, in the year of our Lord, 1841.

Affidavit—And see Oaths.

AN *affidavit* must state the true place of abode and true addition of the deponent; and it ought to set forth matter of fact only, and not matter of argument or inference.

Although a magistrate is required to administer an oath, in the investigation of matters properly brought before him in his judicial character, yet he is not justified in taking a *voluntary* affidavit in any *extra-judicial* matter, as is too much the practice upon every petty occasion. Lord Coke has said, that it is a high contempt to administer an oath not warranted by law, and that the offence is punishable by fine and imprisonment (*u*). And in one case Lord Kenyon said, that “he did not know but that a magistrate subjected himself to a criminal information, for taking a voluntary extra-judicial affidavit (*x*).”

Affray.

AN *affray* is a fighting between two or more persons in *public*, to the terror of the king's subjects. It differs from a *riot* in this—that *two* persons only may be guilty of it; whereas three persons, at least, are necessary to constitute a riot (*y*). If the fighting is in private, that is, out of the seeing and hearing of any, except the parties concerned, it is then not an affray, but an assault. A magistrate may, on the view, endeavour to suppress an affray, and may order the parties to be taken into custody; but if the offence be committed out of his view, he cannot authorize their apprehension without a warrant (*z*). When a person is dangerously wounded in an affray, a justice has a discretionary power either to commit the offender or bail him, till the year and day be past. But the justice should be very cautious how he takes bail; for should the party die, and the offender not appear, the justice is in danger of being severely fined, if, upon the whole

(*u*) 3 Inst. 165.

(*z*) *Bramah v. — Insurance Company*, 3 Chetw. Burn's J. 588.

(*y*) 1 Hawk. c. 65, s. 1.

(*z*) 1 Hawk. c. 63, s. 18. And see further, *post*, *Apprehension of Offenders*.

circumstances of the case, he has been too favourable to the offender, in permitting him to go at large (*a*).

This offence is punishable by *fine* and *imprisonment*, at the discretion of the court.

And see further 1 Dea. Crim. L. p. 26.

Warrant to apprehend Parties charged with committing an Affray.

Kent, } To the constable of —, in the said county, and all other constables
to wit. } and peace officers in the same county.

Whereas, A. B., of &c., hath this day made oath before me, J. P., esq., one of her Majesty's justices of the peace for the said county, that C. D., of &c., and E. F., of &c., on the — day of — instant, at —, in the said county, in a tumultuous manner made an affray, to the terror and disturbance of her Majesty's subjects then and there being, wherein the person of the said A. B. was beaten and abused by the C. D. and E. F., without any lawful or sufficient provocation given to them, or either of them, by the said A. B.: These are therefore, in her Majesty's name, to command you forthwith to apprehend the said C. D. and E. F., and to bring them before me, or some other justice of the peace for the county aforesaid, to answer the said complaint, and to be further dealt with according to law. Given under my hand and seal, at —, in the said county, the — day of —, in the year of our Lord 1841.

Agents—See *Embezzlement*.

Aiders and Abettors—See *Accessories*, and *Principals* in the *Second Degree*.

Alehouses.

FOR the law relative to the sale of beer in places not licensed as alehouses, see *post*, title *Beer Shops*.

For the offence of tippling in alehouses, see *post*, *Drunkenness*.

The justices of the peace, assembled at their general annual licensing meeting, have a discretionary jurisdiction in granting or refusing licences to persons to keep inns, alehouses, and victualling houses; and no *mandamus* will lie to compel them to grant one. But, if this discretion be wilfully abused, the Court of King's Bench will grant a criminal information against them (*b*). Therefore, if they refuse to grant licences from motives of resentment, or any other corrupt motive, they are liable to be punished by fine and imprisonment (*c*).

(*a*) 1 Hawk. c. 63, s. 19.

(*b*) *Rex v. Young*, 1 Burr. 556.

(*c*) *Rex v. Williams*, 3 Burr. 1317;
Rex v. Hann, id. 1716, 1786.

And an information will also be awarded against them, as well for *granting* a licence improperly and corruptly, as for refusing it (*d*).

Two licences are necessary to authorize a person to keep a public house and sell ale and spirituous liquors; 1st, a magistrates' licence, and 2nd, an Excise licence (*e*). And it is only by virtue of a proper licence granted by the magistrates, that a party is enabled to obtain an Excise licence (*f*).

By 9 Geo. 4, c. 61, the whole law on this subject is consolidated, and by sect. 35, all former acts relating to alehouses are repealed.

Annual Meetings.]—By sect. 1, general licensing meetings are to be held annually, for the purpose of licensing “persons keeping, or about to keep, inns, alehouses, and victualling houses, to sell excisable liquors by retail, to be drunk or consumed on the premises.” In *Middlesex* and *Surry* these meetings are to be held within the first ten days of March, and in every other county (*g*) on some day between the 20th of August and the 14th of September, inclusive.

Preliminary Precept and Notice.]—By sect. 2, a petty session must be held twenty-one days, at the least, before the annual licensing meeting, and the majority of the justices then present are, by a precept under their hands, to appoint the day, hour, and place upon and in which the annual meeting shall be held; which precept is to be directed to the high constable of the division or place, requiring him five days after receipt of the precept to order the several petty constables to affix on the door of the church or chapel, or some other public and conspicuous place within their respective districts, a notice of the time and place at which the meeting is to be holden, and to give to, or leave at the dwelling-house, of every justice acting for such division or place, and of every person keeping an inn, or who shall have given notice of his intention to keep an inn and apply for a licence, a copy of such notice.

The following may be the form of the precept of the justices, and the order of the high constable:—

Precept of the Justices.

County of } To A. B., gentleman, high constable of the division of —, within the
Kent, } said county.

We, the majority of the justices of the peace present at a petty session of the justices for the division of —, in the county aforesaid, held this day in pursuance of the statute in that case made and provided, do hereby appoint the — day of —, at

(*d*) *Rex v. Holland*, 1 T. R. 692.

(*e*) *Rex v. Drake*, 6 M. & S. 116.

(*f*) 9 Geo. 4, c. 61, s. 17, *post*,

(*g*) See *post*, sect. 36, as to the city of London.

the hour of — of the clock, in the forenoon of that day, at —, for holding a special sessions of justices, called the general annual licensing meeting for the said division, for granting licenses for keeping inns, alehouses, and victualling houses, to sell exciseable liquors by retail, to be drunk or consumed upon the premises of the respective applicants in the said division: And we do hereby require you, within five days after receipt hereof, to order the several constables, or other peace officers, within your constabewick, to affix on the door of each church or chapel, and if there be no church or chapel then on some conspicuous place in their respective districts, a notice of the day, hour, and place at which such meeting is to be held as aforesaid, and to give or leave a copy of such notice at the dwelling-house of every justice of the said division, and of every innkeeper, and other person who has given notice of his intention to keep an inn and apply for an ale licence, within their respective districts. Dated this — day of —.

A. B., C. D., E. F., &c.

[the signatures of the justices.]

Order of the High Constable thereon.

County of Kent, } By virtue of a precept from her Majesty's justices of the peace hundred of —. } acting within the said hundred, to me directed, you are hereby required, on sight hereof, to affix on the door of each church or chapel, and if there shall be no church or chapel, then on some conspicuous place, within your district, a notice that a special session of justices, called the general annual licensing meeting, will be holden on the — day of — next, at the hour of — of the clock of the forenoon of the same day at —, for granting licences for keeping inns, alehouses, and victualling houses, to sell exciseable liquors by retail, to be drunk or consumed upon the premises therein to be specified; and also to leave a copy of such notice at the dwelling-house of every justice of the peace of the said division in your district, and also at the dwelling-house of every innkeeper or person who has given notice of his intention to keep an inn and to apply for an ale licence, within your district.

Adjournment of Meeting.—By 9 Geo. 4, c. 61, s. 3, the justices are empowered and required to adjourn the annual meeting to such day or place within the division, as the justices may deem most convenient for enabling inn-keepers to apply for a licence; provided that the first adjourned meeting shall not be holden upon any of the five days next ensuing the day of the annual meeting, and that every adjourned meeting shall be holden within the month of March in Middlesex and Surry, and in August or September in every other county.

Meeting for transferring Licences.—By sect. 4, at the annual meeting, the justices are to appoint not less than four, nor more than eight, special sessions to be holden for the division in the year next ensuing the annual meeting, at periods as near as may be equally distant; at which special sessions the justices then assembled may license such persons intending to keep inns, theretofore kept by other

persons about to remove from such inns, as the justices shall, in the exercise of their discretion, deem fit and proper persons to be licensed.

Notice of the adjourned Meeting, &c.—By *sect. 5*, whenever the justices shall adjourn the annual meeting, or appoint any special sessions, the time and place for holding the same shall be appointed by precept directed to the high constable, requiring similar notices to be affixed at the same place and served upon the same parties, as the notice required for the annual meeting.

What Justices disqualified.—By *sect. 6*, no justice, who shall be a *common brewer, distiller, maker of malt for sale, or retailer of malt or of any exciseable liquor*, shall act in, or be present at, any such meeting or special session, or shall take part in the discussion or adjudication of the justices upon any application for a licence, or upon any appeal therefrom. And no justice shall act in the case of any house, of which he shall be the owner, or for the owner of which he shall be the manager or agent, or of any house being in whole or in part the property of any *common brewer, &c.*, to whom such justice shall be, either by blood or by marriage, the father, son, or brother, or of whom he shall be the partner in any other trade or calling,—under a penalty, in any of these cases, of 100*l.* But nothing is to disqualify a justice, having no beneficial interest in the house, by reason of the legal estate therein being vested in him as trustee, or for any charitable or public use or purpose.

Meetings for Towns and Liberties.—By *sect. 7*, whenever at any of the meetings for any liberty, county of a city, county of a town, city, or town corporate, there shall not be present at least two justices, acting in and for such liberty, &c., who are not disqualified, the justices for the county, or counties adjoining, may act within such liberty or place with the justice who is not disqualified. By *sect. 8*, this power given to the county justices is declared not to extend to the *Cinque Ports*. But by 6 & 7 Will. 4, c. 105, s. 11, the justices for the *Cinque Ports* acting under any commission, granted by virtue of 51 Geo. 3, c. 36 for facilitating the execution of justice within the *Cinque Ports*, may exercise all the powers of justices for counties, in respect of granting alehouse licences.

Where two sets of magistrates have a concurrent jurisdiction, and one set appoint a meeting to grant licences, *their* jurisdiction attaches, so as to exclude the other set from appointing a subsequent meeting; and if, after such appointment, the other set of magistrates meet on

a subsequent day, and grant other licences, their proceeding is illegal, and the subject of an indictment (*h*).

How questions at Meetings to be determined.—By sect. 9, when any question touching the granting, withholding, or transferring any licence, or the fitness of the person applying for the licence, or of the house intended to be kept by such person, shall arise, such question shall be determined by the majority of justices present who are not disqualified, and the licence be signed by them.

Notices to be given by Innkeepers.—By sect. 10, every person intending to apply for a licence for any house, not theretofore kept as an inn, must affix a notice on the door of such house, and of the door of the church or chapel of the parish or place where the house is situate, or on some other public and conspicuous place if there is no church or chapel, on three several Sundays, between the 1st January and the last day of February in Middlesex and Surry, and elsewhere between the 1st June and the last day of July, at some time between ten in the forenoon and four in the afternoon, and must serve a copy of the notice upon one of the overseers and one of the constables of the place, within the month of February in Middlesex and Surry, and elsewhere within the month of July, prior to the annual licensing meeting. The notice must be according to the form in the schedule to the act, must be signed by the party or his agent, must set forth the situation of the house in a true and particular manner, and the christian and surname of the party, with the place of his residence, and his trade and calling, during the six months previous.

Form of the Notice, as given by the Schedule.

To the overseers of the poor, and the constables of the parish of —, and to all whom it may concern.

I, A. B. [*state the trade or occupation*] now residing at —, in the parish of —, in the county of —, and for six months last past having resided at —, in the parish of —, [*or “in the several parishes of — and —,”*] in the county of —, [*or “in the counties of — and —,”*] do hereby give notice, That [*if application is intended to be made to a special session, here state the cause for such application*] it is my intention to apply at the general annual licensing meeting [*or “at the special session”*] to be holden at —, on the — day of — next ensuing, for a licence to sell exciseable liquors by retail, to be drunk or consumed in the house or premises thereunto belonging, situate at [*here describe the house intended to be opened, specifying the situation of it, the person of whom rented, the present or late occupier, whether kept or used as an inn, alehouse, or victualling house within the three years preceding; and if so, by whom, and under what sign*], and which I intend to keep as an inn, alehouse, or victualling house. Given under my hand this — day of —, 1841.

Transfer of Licence.—By *sect. 11*, every person desirous to *transfer* a licence to some other person must, five days at least before a special session, serve a notice of his intention upon one of the overseers and one of the constables, according to the form in the schedule, and containing the like particulars as the first mentioned notice.

Form of the Notice, as to the Transfer of a Licence.

To the overseers of the poor, and the constables of the parish of —, in the county of —, and to all whom it may concern.

I, A. B., [or “ We the executors, &c. &c. of the late A. B.,”] victualler, being authorized, by virtue of the licence granted to me [or “ him,” or “ her”] at the general annual licensing meeting [or “ special session”] held at —, on the — day of —, 1840, to sell exciseable liquor by retail, to be drunk or consumed in the house or premises thereunto belonging, situate at [*here describe the situation of the house*], and commonly known by the sign of the —, do hereby give notice, That it is my [or “ our”] intention to apply at the special session to be holden at —, in the county of —, on the — day of —, 1841, for permission to transfer the above-mentioned licence to C. D. [*state his trade or occupation*], now residing at —, in the parish of —, in the county of —, [or “ counties of — and —,”] that the said C. D., intending to keep as an inn, alehouse, or victualling house, the said house so as aforesaid kept by me, [or “ us,”] may sell exciseable liquors by retail, to be drunk or consumed in the said house or premises thereunto belonging. Given under my hand, this — day of —, 1840.

Where the party hindered from attending the Meeting.—By *sect. 12*, if any person so applying is hindered by sickness, or infirmity, or by any other reasonable cause, from attending in person at any such meeting, which is proved on oath to the satisfaction of the justices, the licence may be delivered to any person duly authorized to receive it.

Form and duration of Licence.—By *sect. 13*, the licence is to be in force in *Middlesex* and *Surry*, from the 5th April, and elsewhere from the 10th October, and is required to be in the following form:—

Form of Licence.

At the general annual licensing meeting, [or “ an adjournment of the general annual licensing meeting,” or “ at a special petty sessions,”] of her Majesty’s justices of the peace, acting for the division [or “ liberty &c.,” *as the case may be*] of —, in the county of —, holden at —, on the — day of —, in the year one thousand eight hundred and —, for the purpose of granting licences to persons keeping inns, alehouses, and victualling houses, to sell exciseable liquors by retail, to be drunk or consumed on the premises, we, being — of her Majesty’s justices of the peace acting for the said county, [or “ liberty, &c. &c.,” *as the case may be*,] and being the majority of those assembled at the said sessions, do hereby authorize and empower A. L., now dwelling at —, in the parish of —, and keeping [or “ intending to keep”] an inn, alehouse, or victualling house, at the sign of the —, in the — of —, in the division and county aforesaid, to sell by retail therein, and in the premises thereunto

belonging, all such exciseable liquors as the said A. L. shall be licensed and empowered to sell under the authority and permission of any excise licence, and to permit all such liquors to be drunk or consumed in his said house, or in the premises thereunto belonging, provided that he [*or "she"*] do not fraudulently dilute or adulterate the same, or sell the same, knowing them to have been fraudulently diluted or adulterated, and do not use in selling thereof any weights or measures that are not of the legal standard, and do not wilfully or knowingly permit drunkenness, or other disorderly conduct in his [*or "her"*] house or premises, and do not knowingly suffer any unlawful games or any gaming whatsoever, and do not knowingly permit or suffer persons of notoriously bad character to assemble and meet together therein, and do not keep open his [*or "her"*] house except for the reception of travellers, nor permit or suffer any beer or other exciseable liquor to be conveyed from or out of his [*or "her"*] premises during the usual hours of the morning and afternoon divine service in the church or chapel of the parish or place in which his [*or "her"*] house is situated on Sundays, Christmas Day, or Good Friday, but do maintain good order and rule therein; and this licence shall continue in force from the — day of — next, until the — day of — then next ensuing, and no longer, provided that the said A. L. shall not in the meantime become a sheriff's officer, or officer executing the process of any court of justice, in either of which cases this licence shall be void. Given under our hands and seals, on the day and at the place first above written.

Provision in case of Death, &c. of Innkeepers.—By sect. 14, if any person shall die before the expiration of his licence, or shall be by sickness or other infirmity rendered incapable of keeping an inn, or shall become bankrupt, or take the benefit of the Insolvent Act, or shall remove from or yield up the possession of the house specified in the licence; or if the occupier of the house, being about to quit the same, shall have omitted to apply at the annual meeting, or any adjournment thereof, for the continuation of the licence; or if any house duly licensed shall be or be about to be pulled down or occupied for the improvement of the highways, or for any other public purpose; or shall be by fire, tempest, or other unforeseen and unavoidable calamity, rendered unfit for the reception of travellers, and for the other legal purposes of an inn;—the justices at a special sessions may grant a licence to the heirs, executors, or administrators of the person so dying, or to the assigns of the person becoming incapable of keeping an inn, or the assignees of such bankrupt or insolvent, or to any new tenant or occupier, or to any person to whom such heirs, executors, administrators, or assigns shall have *bonâ fide* conveyed, or otherwise made over his or their interest in the house; or, in the other cases before mentioned, if the party shall open and keep as an inn some other fit and convenient house, the justices may grant him a licence for that house; but which licence is only to continue in force until the 5th April, or 10th October next ensuing. But

every person so applying at a special session for a licence for a house not previously licensed must, on some one Sunday within the six weeks next before such special sessions, affix and serve the like notice at the same place and on the same persons, as is required with respect to an application at the annual meeting.

Licence granted at a Special Meeting in case of Death, &c.

At a special meeting of her Majesty's justices of the peace acting in and for the division of the hundred of —, in the county of —, holden at —, within and for the said division, on the — day of —, 1841, for the purpose of authorizing and empowering persons to open, or continue open, in certain cases, common inns, alehouses, or victualling houses.

It having been duly made to appear to us whose names are hereunto subscribed, that at the last general annual licensing meeting holden within the said division, for the purpose of licensing persons to keep common inns, alehouses, or victualling houses, within the said division, A. B. of &c., since deceased, was authorized and empowered, at the sign of the —, in the parish of —, in the division and county aforesaid, to keep a common inn, alehouse, or victualling house, and to sell certain exciseable liquors under such authority and permission; and also that the said A. B. died on or about the — day of —, [*in case the fresh licence is granted by reason of the removal or bankruptcy of the innkeeper, or for any other cause specified in the above section, here state the fact.*]

We, being three of her Majesty's justices of the peace, acting in and for the said division and county, assembled at the said special meeting, and being the majority of those there assembled, do authorize and empower the said C. D. to continue open the said house as an alehouse or victualling-house, and to utter and sell therein, and in the premises thereunto belonging, and not elsewhere, victuals and all such exciseable liquors as the said A. B. was licensed and empowered to sell under the authority and permission of any Excise licence, and to permit all such liquors to be drunk or consumed in the said house, or in the premises thereunto belonging; provided that the said C. D. do not fraudulently dilute or adulterate &c. [*the same as in the general form of a licence, ante, page 21.*]

Fees to be paid for Licences.—By sect. 15,—for the petty constable, for serving notices, and all other services required of him, *one shilling*; and for the clerk of the justices, for the licence, *five shillings*, and for preparing the precepts and notices *one shilling and sixpence*. Every clerk demanding or receiving more, incurs a penalty of 5*l.*, on conviction before one justice.

Persons disqualified to hold Licences.—By sect. 16, no *sheriff's officer*, or *officer executing the legal process of any court of justice*, is capable of receiving or using any licence.

Granting of Excise Licences.—By sect. 17, no Excise licence shall be granted to any person, unless he shall have previously obtained a licence from the justices; or if so granted, it is declared to be void.

Penalties for selling Liquors, without Licence.—By *sect. 18*, every person who shall sell, barter, exchange, or for valuable consideration otherwise dispose of any exciseable liquor by retail, to be drunk or consumed in his house or premises, or permit or suffer the same to be done, without being duly licensed so to do; and every person, being duly licensed, who shall do or permit the same thing to be done in his house or premises, not being the house or premises specified in the licence, shall for every such offence, on conviction before *one* justice, forfeit and pay not exceeding 20*l.*, nor less than 5*l.*, together with costs. But this penalty does not attach on the heirs, executors, administrators, or assigns of any person licensed, who shall die, become bankrupt, or take the benefit of the Insolvent Act, before the expiration of his licence, with respect to any sale of liquor in the house specified in the licence, prior to the special session then next ensuing; and if the special session is holden within fourteen days after the death &c. of the party licensed, the sale may be prior to the next succeeding special session.

Penalty for not using Standard Measures.—By *sect. 19*, every licensed person shall, if required, sell or otherwise dispose of all such liquors (except in quantities less than a half-pint) by the gallon, quart, pint, or half-pint measure, sized according to the standard; in default of which, he shall for every offence forfeit the illegal measure, and not exceeding 40*s.*, with costs, to be recovered within thirty days after the commission of the offence, before *one* justice; such penalty to be over and above all penalties under any other act.

Closing of Houses, in case of Riot.—By *sect. 20*, any two justices acting for any county or place, where any riot or tumult shall happen, or be expected to take place, may order and direct that every licensed person, keeping any house situate within their respective jurisdictions in or near the place where such riot or tumult shall happen or be expected, shall close his house at any time which the justice shall direct. And every person, who shall disobey such order, shall be taken and deemed to have not maintained good order and rule therein.

Penalties for Offences against the tenor of the Licence.—By *sect. 21*, every licensed person, who shall be convicted before two justices of any offence against the tenor of his licence, shall,—unless proof be adduced to the satisfaction of such justices that such person had been theretofore convicted before two justices within the space of three years next preceding, of some offence against the tenor of the licence subsisting at the time when such last mentioned offence was

committed,—be adjudged by such justices to be guilty of a first offence against the provisions of the act relating to the maintenance of good order and rule, and to forfeit and pay not exceeding 5*l.*, together with the costs of the conviction. But if proof shall be adduced to the satisfaction of the justices, that such person had been so previously convicted, he shall be adjudged to be guilty of a second offence, and to forfeit not exceeding 10*l.*, with costs. And if proof shall be adduced that such person had been so previously convicted within three years of two separate offences, the justices are then required to adjourn the further consideration of the charge to the next special session, or to the general annual licensing meeting, if that should take place before the special session; and the justices shall issue their summons to the person so charged to appear at such special session or annual meeting, and shall bind the person who shall make such charge, and any other person who shall have any knowledge of the circumstances, in a sufficient recognizance to appear to prosecute and give evidence upon such charge; and if proof shall be adduced to the satisfaction of the justices there assembled, that such person is guilty of the offence with which he is so charged, he shall be declared guilty of a third offence against the provisions of the act, and forfeit and pay not exceeding 50*l.*, together with costs. The justices, however, are empowered, if they think fit, to adjourn the hearing of the charge to the next quarter sessions, to be inquired of by a jury; or the party charged may require the case to be so adjourned, provided he enters into a recognizance with two sufficient sureties personally to appear and try such charge, and abide the judgment of the court, and pay such costs as shall be awarded; in which case the justices are to bind over the prosecutor and witnesses. If the party is found guilty by a jury, the court may either punish him by a fine not exceeding 100*l.*, or adjudge his licence to be forfeited, or may award both the penalty and the forfeiture. If his licence is declared to be forfeited, his Excise licence also becomes void, and he is to be deemed incapable of selling exciseable liquors by retail in any inn kept by him for the space of three years, and any licence granted to him during such term is declared to be void.

When the Justices may order the Constable to prosecute.—When the justices adjourn the case to the quarter sessions, if no other fit and proper person shall appear to prosecute such charge, they may order the constable, or other peace officer, to carry on all proceedings necessary to obtain an adjudication, and bind him in a sufficient

recognizance so to do. The justices may also order the treasurer of the county to pay to the constable, and the witnesses, such money as to the court shall appear to be sufficient to reimburse such constable and witnesses their expenses of their prosecution; which order the clerk of the peace is required forthwith to make out and deliver to the constable or witnesses; and the treasurer is required, upon sight of the order, forthwith to pay such money to the constable, or other person authorized to receive the same.

Penalty on Witnesses not attending.—By sect. 23, if any person summoned as a witness shall neglect or refuse to appear at the time and place for that purpose appointed, without such reasonable excuse as shall be admitted and allowed by the justice; or, if appearing, he shall refuse to be examined on oath or affirmation and give evidence, he shall, on conviction before such justices, forfeit not exceeding 10*l*.

Recovery of Penalties on Justices.—By sect. 24, every penalty and forfeiture, imposed by the act upon any justice, may be sued for and recovered by action of debt in any of the courts at Westminster; one moiety to be paid to the queen, and the other moiety to the informer.

Recovery of other Penalties.—By sect. 25, upon refusal or neglect of any party to pay any penalty and costs, the justice may issue a warrant of distress; in which case, if the offender be in custody, he shall be forthwith discharged. But if it shall appear to the justice, that the goods of the offender are not sufficient whereon to levy such distress, together with the costs, the justice may commit him to the common gaol or house of correction for any term not exceeding one calendar month, if the penalty is not above 5*l*.; not exceeding three calendar months if above 5*l*., and not more than 10*l*.; and not exceeding six calendar months, if above 10*l*. But if the offender shall pay the penalty and costs to the gaoler or keeper of the house of correction, or to whomsoever such justice shall have appointed, together with all the costs of his apprehension, and of his conveyance to prison, at any time previous to the expiration of the term of his imprisonment, he shall be forthwith discharged.

Application of Penalties.—By sect. 26, the justices, before whom any penalty shall be recovered, may award not more than half to the prosecutor, and the remainder to the treasurer of the county.

Appeal.—By sect. 27, an appeal is given to the next quarter sessions, unless they are holden within twelve days, and in that case

to the next subsequent sessions, provided the party appealing gives notice in writing of his intention to appeal, and of the cause and matter thereof, within five days next after the act done by the justice, and seven days at the least before such sessions, and shall within such five days enter into a recognizance with two sufficient sureties to prosecute the appeal. Upon such notice being given, and such recognizance entered into, the justice shall liberate the party, if in custody. And in case the act appealed against shall be the refusal to grant or transfer any licence, and the judgment be reversed, the court may grant or transfer such licence in the same manner as if it had been granted at the general annual licensing meeting, or had been transferred at a special session. But, in case of the dismissal of the appeal, the court shall order the judgment to be carried into execution. No justice shall act in the hearing or determination of any appeal from any act done by himself. And when any cause of complaint arises within any liberty, city, or town corporate, the party aggrieved may appeal to the quarter sessions of the county, within, or adjoining to, which such liberty or place shall be situate.

By *sect. 28*, after notice of the intention to appeal, and the entry into the recognizance by the party grieved, the justice may bind over witnesses to appear and give evidence at the quarter sessions, and on their refusal to enter into the proper recognizance for this purpose, he may commit them to the common gaol or house of correction.

By *sect. 24*, the court of quarter sessions may, if the appeal is dismissed, or the judgment affirmed, order the appellant to pay costs to the justices; or, if the judgment be reversed, the court may in that case order the treasurer of the county to pay him such costs.

Actions against Justices.]—By *sect. 30*, every action against any justice, constable, or other person, for or on account of any matter or thing whatsoever done or commanded by him in the execution of his duty or office under the act, shall be commenced within three calendar months after the cause of action or complaint shall have arisen; and the defendant may plead the general issue, and give the special matter in evidence.

Number of Witnesses.]—By *sect. 31*, every conviction under the act may be on the oath of one witness.

Form of Conviction, &c.]—*Sect. 32* declares, that a conviction in the form, or to the effect following, shall be good and effectual, without stating the case or the facts or evidence in any more particular manner:—

—, } Be it remembered that on this — day of —, in the year —, at
to wit. } —, in the county of —, A. B. of —, was duly convicted before
—, one of his Majesty's justices of the peace for the —, for that [*here state the
offence, and the time and place when committed,*] whereby the said A. B. has forfeited
the sum of —, this being adjudged to be the first [*or "second," or "third,"*] offence
[*as the case shall happen to be,*] against the provisions of an Act to regulate the granting
of Licences to Keepers of Inns, Alehouses, and Victualling Houses in England,
besides the costs of this conviction, which — the said justices do hereby assess at the
sum of —, pursuant to the statute in such case made and provided. Given under
— hand and seal, the day and year above written.

By *sect. 33*, the justice must return the conviction to the next general or quarter sessions, where it is to be filed of record.

By *sect. 34*, no conviction, or adjudication on appeal therefrom, shall be quashed for want of form, or be removed by *certiorari*, or otherwise; and no warrant of commitment shall be held void, by reason of any defect therein, provided it be alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

Exceptions.—By *sect. 36*, the act is not to affect the Universities of *Oxford* or *Cambridge*, or the *Vintners' Company* of the city of *London*, nor to alter the time of granting licences for keeping inns in *London*, nor to prohibit the sale of beer at any lawful fair.

Rules for interpretation of certain words in the act are given by *sect. 37*.

Unlawful Clubs, Lectures, &c.—By 39 Geo. 3, c. 79, s. 21, if seditious or immoral publications are usually distributed at an inn, or alehouse, for the purpose of being read, two justices, on evidence on oath of the fact, may declare the licence to be forfeited.

By 57 Geo. 3, c. 19, s. 28, if any unlawful meeting for any seditious purpose is held at any house licensed for the sale of liquors, with the knowledge and consent of the person keeping such house, two justices, upon evidence on oath of the fact, may adjudge the licence to be forfeited.

Licences to Canteens under the Mutiny Act.—The annual statute, called the *Mutiny Act*, authorizes any two justices, within their jurisdiction, to grant or transfer any licence for selling ale, &c. by retail in any house used as a canteen, or any licence to sell wine and spirituous liquors to any person applying for the same, who shall hold any lease or agreement from any two of the principal officers of the Board of Ordnance, or two of the late commissioners for the Affairs of Barracks, or from the comptroller or other proper officer

of the Barrack Department, without regard to the time of year, or any notices or certificates required in respect to granting licences.

Opening houses on Sundays.—By 2 & 3 Vict. c. 47, s. 42, no licensed victualler, or other person, shall open his house within the *Metropolitan Police District*, for the sale of wine, spirits, beer, or other fermented or distilled liquors on *Sundays, Christmas Day, and Good Friday*, before the hour of one in the afternoon, except for refreshment for travellers.

Supplying Liquors to Children under sixteen.—By sect. 43, any person licensed to deal in exciseable liquors within such district, who shall knowingly supply any sort of distilled or exciseable liquor to any boy or girl apparently under the age of sixteen years, to be drunk upon the premises, shall be liable to a penalty not more than 20s.; upon conviction of a second offence, to a penalty not more than 40s.; and for a third offence not more than 5l.

Regulations respecting Public houses extended to other houses of Public resort.—By sect. 44, any person, who shall have or keep any house, shop, room, or place of resort, *within the Metropolitan Police District*, wherein provisions, liquors, or refreshments of any kind shall be sold or consumed (whether the same shall be kept or retailed therein, or provided elsewhere,) and who shall wilfully or knowingly permit drunkenness or other disorderly conduct in such house, &c., or knowingly suffer any unlawful games or any gaming whatsoever therein, or knowingly permit or suffer prostitutes or persons of notoriously bad character to meet together and remain therein, is liable to a penalty not more than 5l. But this is not to exempt any licensed victualler or beer-seller from any penalty for acting contrary to his licence.

Internal communications with Public houses.—By sect. 45, every person, who shall make or use, or allow to be made or used, any internal communication between any house, shop, room, or place of public resort, not licensed for the sale of wine, spirits, beer, or other exciseable articles, *within the said district*, and any house, shop, room, or place licensed for the sale of those articles, or in which wine is sold by a free vintner, is liable to a penalty not more than 10l. for every day that such communication shall be open.

Vintners' Company.—By sect. 41, freemen of the *Vintners' Company*, who claim to be entitled to sell foreign wine by retail, to be drunk on the premises, *within the Metropolitan Police District*,

without licence, are subject to the provisions of all acts made for the regulation of persons so licensed, except the taking out the Excise or the Justices' licence.

For the proceedings on summary conviction under this last statute, see *post*, **Metropolitan Police**.

1. Information against an Alehouse-keeper, for selling Ale without Licence, contrary to 9 Geo. 4, c. 61, s. 18.

Lancashire, } Be it remembered, that on the — day of —, in the year of our
to wit, } Lord —, at —, in the said county, A. B. of the parish of —, in
the county aforesaid, labourer, as well for the treasurer of the county aforesaid, as for
himself in this behalf, informeth me J. P., one of her Majesty's justices of the peace
for the said county, that C. D. of —, in the county aforesaid, yeoman, on the —
day of —, in the year aforesaid, at the parish and county aforesaid, did sell by retail
porter, to wit, four quarts of porter, the same being an exciseable liquor, to be drunk
and consumed in his house, without being duly licensed so to do, contrary to the form
of the statute in such case made and provided, whereby and by force of the statute in
such case made and provided the said C. D. hath forfeited for his said offence the sum
of 20*l.*: Wherefore the said A. B., who sues as aforesaid, prayeth the consideration of
me the said justice in the premises, and that the said C. D. may be convicted of the
offence aforesaid, and that one moiety of the said forfeiture may be adjudged to the
treasurer of the county aforesaid, and the other moiety thereof to the said A. B., ac-
cording to the form of the statute in that case made and provided; and that the said
C. D. may be summoned to appear before me and answer the premises, and make his
defence thereto.

2. Information, under the same Statute, against a Victualler for committing an Offence against the tenor of his Licence.

Lancashire, } Be it remembered, &c. [*as in the former precedent*], that at the time
to wit, } of the commission of the offence hereinafter mentioned, C. D., late of,
&c., was a person licensed to sell by retail in his house and premises in the parish and
county aforesaid, all such exciseable liquors as he the said C. D. should be licensed
and empowered to sell under the authority and permission of any exciseable licence,
and to permit all such liquors to be drunk or consumed in his said house, or in the
premises thereunto belonging, provided (amongst other things) that the said C. D.
did not wilfully or knowingly permit drunkenness or other disorderly conduct in his
house or premises: And that the said C. D., whilst he was such licensed person as
aforesaid, and subject to the conditions under which such licence was granted to him,
to wit, on the — day of —, in the year aforesaid, at the parish and county afore-
said, did wilfully and knowingly permit and suffer drunkenness and disorder in his said
house, against the tenor of his said licence, by permitting one J. B. and other persons
to be then and there served with liquor, and to become then and there in a state of in-
toxication and drunkenness, against the tenor of the licence so granted to the said C. D.
as aforesaid, and contrary to the form of the statute in such case made and provided,
whereby and by force of the statute in that case made and provided the said C. D. hath
forfeited for his said offence the sum of 5*l.* Wherefore, &c. [*as in the first precedent
to the end.*]

3. *Conviction, in pursuance of the last Information.*

Lancashire, } Be it remembered, that on this — day of —, in the year —,
 to wit. } C. D. of the parish of —, in the county aforesaid, was duly convicted before us E. F. and G. H., Esquires, two of her Majesty's justices of the peace for the division of — in the said county, for that he the said C. D., being a person duly licensed to sell by retail exciseable liquors in his house and premises, did whilst he was such licensed person, and whilst he was subject to the conditons under which such licence was granted to him, to wit, on the — day of —, in the year aforesaid, at the parish and county aforesaid, wilfully and knowingly permit and suffer drunkenness and disorder in his said house, against the tenor of his said licence, by permitting one J. B. and other persons to be then and there served with liquor, and to become then and there in a state of intoxication and drunkenness, against the tenor of the licence so granted to the said C. D. as aforesaid, whereby the said C. D. has forfeited the sum of 5*l.*, this being adjudged to be the first offence against the provisions of an Act to regulate the granting of Licences to Keepers of Inns, Alehouses and Victualling Houses in England, besides the costs of the conviction, which we the said justices now assess at the sum of —, pursuant to the statute in such case made and provided. Given under our hands and seals the day and year first above written.

E. F. (L. s.)

G. H. (L. s.)

4. *Summons to Appear at a Special Sessions, to answer the above Information, where the Party has been twice Convicted.*

Lancashire, } To the constable of —, in the county of Lancaster.
 to wit. }

Whereas complaint and information have been this day made before me E. F., one of her Majesty's justices of the peace in and for the said county, that C. D., late of, &c., was a person licensed, &c. [*stating the offence as in the information:*] And whereas proof has been adduced to my satisfaction, that the said C. D. hath been previously convicted before two justices, within the space of three years next preceding, of two separate offences against the tenor of the respective licences subsisting at the times when such last-mentioned offences were committed: These are therefore, in her Majesty's name, to will and require you forthwith to summon the said C. D. to appear at the next special sessions [*or "to the next general annual licensing meeting," if such meeting should take place before the special sessions,*] for the division in which the said house kept by the said C. D. is situate, to be holden at — on —, then and there to answer to the matter of such charges, and to be further dealt with according to law. And be you then there to certify what you have done in the premises. Given under my hand and seal this — day of —, in the year of our Lord 1841.

5. *Conviction in pursuance of the last Summons.*

Lancashire, } 'Be it remembered, that at the special sessions for the division of —
 to wit. } in the said county, holden on the — day of —, at —, in the said county, C. D. of —, was duly convicted before us E. F. and G. H. Esquires, two of her Majesty's justices of the peace acting in and for the said division, for that [*stating the offence as in the above conviction,*] whereby the said C. D. hath forfeited the sum of 50*l.*, this being adjudged to be his third offence against the provisions, &c. [*the same as in the above conviction.*]

Aliens.

DUTIES of Masters of Vessels.—By 6 & 7 Will. 4, c. 11, s. 2, the master of every vessel, which shall arrive from foreign ports, shall immediately on his arrival declare in writing to the chief officer of the customs at the port of arrival, whether there is, to the best of his knowledge, any alien on board his vessel, and whether any alien hath landed therefrom at any place within this realm, specifying the number of aliens, their names, rank, occupation, and description. If he shall refuse or neglect to make such declaration, or shall wilfully make a false one;—*penalty* for every offence 20*l.*; and the further sum of 10*l.* for each alien whom he shall have wilfully refused or neglected to declare. If the master does not forthwith pay the penalty, any officer of the customs may detain the vessel until the same shall be paid. But this enactment not to extend to foreign mariners navigating the vessel.

Duties of Aliens.—By *sect. 3*, every alien so arriving shall immediately after such arrival present and show to the chief officer of the customs at the port of debarkation, for his inspection, any passport which may be in his or her possession, and declare in writing to such chief officer, or verbally make to him a declaration to be by him reduced into writing, of the day and place of his landing, and of his name, and shall also declare to what country he belongs, and the country from whence he shall have come;—*Penalty*, for neglect or refusal in any of these particulars, 2*l.*

Duties of Officers of Customs.—By *sect. 4*, the officer of the customs is required to register the declaration, and deliver a certificate to the alien. And by *sect. 5*, the chief officer of the customs in every port is, within two days, to transmit a copy of the declaration of the master of the vessel, and of such certificate, to the secretary of state.

Aliens quitting the Realm.—By *sect. 6*, any alien about to depart from the realm shall, before his embarkation, deliver any certificate, which he shall have received under the provisions of the act, to the chief officer of the customs at the port of departure, who is to transmit the same to the secretary of state.

Where Certificate lost.—By *sect. 7*, if any certificate shall be lost, and the alien shall prove that fact before a justice, and that he has duly conformed with the provisions of the act, the justice is required to testify the same under his hand, and the alien is thereupon entitled to receive from the secretary of state a fresh certificate.

Penalty for exacting Fees.—By *sect. 8*, all certificates are to be granted, without fees; and every person who shall take any fee or reward of any alien, or other person, for any certificate, or any other matter or thing done under the act, shall forfeit 20*l.* Every custom house officer, who shall refuse or neglect to make such entry as aforesaid, or grant any certificate thereof, or shall knowingly make any false entry, or neglect to transmit the copy thereof, or any declaration, as directed by the act, forfeits also 20*l.*

Penalty for forging Certificates.—By *sect. 9*, if any person shall wilfully make or transmit any false declaration, or shall wilfully forge, counterfeit, or alter, or cause to be forged, &c., or shall utter, knowing the same to be forged, &c., any declaration or certificate, or shall obtain any such certificate under any other name or description than the true one of the alien, without disclosing to the person granting such certificate the true name and description of the alien, or shall falsely pretend to be the person intended to be named and described in the certificate;—the offender, on conviction *before two justices*, shall either forfeit not exceeding 100*l.*, or be imprisoned not exceeding three calendar months.

Prosecution of Offences.—By *sect. 10*, all offences must be prosecuted within six calendar months after the offence committed, before *two justices* of the place where the offence shall be committed; who are required, in default of payment of any penalty not exceeding 20*l.*, to commit the offender to the common gaol for not more than one calendar month, and forthwith to report such conviction to the secretary of state. No *certiorari*.

Exemptions from Act.—By *sect. 11*, nothing is to affect any foreign ambassador, or other public minister duly authorized, nor his domestic servant registered as such, or being actually attendant upon him; nor any alien continually residing within the realm for three years before the passing of the act, or who shall thereafter complete such residence of three years, and who shall have obtained a certificate thereof from the secretary of state; nor any alien under fourteen years of age.

Onus probandi.—If any question shall arise whether a party is an alien or not, or is subject to the provisions of the act, the burthen of proof that the party is not subject to the provisions of the act, shall lie on the party himself.

Almanacks.

THE offence of selling *unstamped almanacks* no longer exists, the stamp duty on them having been repealed by the 4 & 5 Will. 4, c. 57.

Anatomy.

BY 2 & 3 Will. 4, c. 75, for regulating schools of *anatomy*, licences to practise *anatomy* can only be granted by the secretary of state for the home department, upon an application of the party countersigned by *two justices* for the place where such party resides, that to their knowledge or belief he is about to practise *anatomy*.

By *sect. 18*, any person offending against the provisions of the act is declared guilty of a *misdemeanour*, punishable by imprisonment not exceeding three months, or by a fine not exceeding 50*l*.

Anchors.

BY 1 & 2 Geo. 4, c. 75, s. 18, all manufacturers of anchors must place their names, together with a progressive number, and also the weight of the anchor in legible characters upon the crown, and also upon the shank under the stock;—*Penalty* for default not exceeding 5*l*., nor less than 40*s*., one-half to the informer, and the other to the poor of the parish, on conviction before *one justice*, on the oath of one witness.

Sect. 19 gives a general form of conviction. No *certiorari*.

Sect. 20 gives an appeal, within three calendar months after conviction.

By *sect. 21*, inhabitants of the parish are deemed competent witnesses, notwithstanding the above application of the penalty.

For the proceedings on summary conviction, see *post*, **Marine Stores**.

Angling—See **Fish**.

Animals—See **Cattle**.

Annuities.

BY 29 Geo. 3, c. 41, for raising a sum by way of annuities, any justice of the place where the person making the oath shall reside may

(by sect. 27,) under the circumstances there stated, administer an oath as to the life of the nominee of the annuity; and the justice is required to give a certificate thereof, without fee or stamp duty, in order that the party may receive the annuity.

By 56 Geo. 3, c. 53, s. 3, a justice of the peace is required to take an affidavit by a party entitled to a life annuity granted by the commissioners for the reduction of the national debt, or by the persons applying to receive the same, of the truth of certain matters required to be stated in a certificate under the provisions of that act.

By 10 Geo. 4, c. 24, s. 5, the like power is given to any justice to administer an oath to the witnesses to certain certificates required under that act, and to the purchaser of any government annuity.

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Apothecaries.

BY 55 Geo. 3, c. 194, various provisions are enacted to regulate the practice of apothecaries, and numerous penalties imposed for the breach of them.

By sect. 26, all penalties above 5*l.* must be sued for by action at law in a court of record; and all penalties less than 5*l.* are declared to be recoverable before a justice of the peace. But it so happens, that there is no penalty *less* than 5*l.* imposed by the act, nor is there any power given to mitigate any penalty; so that all the provisions in the act, as to the recovery of penalties before a magistrate, are perfectly useless.

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Appeal.

IN order to enable a party to appeal against the order or conviction of a magistrate, the right of appeal must be given by express enactment, and cannot be extended by an equitable construction to cases not distinctly enumerated in the statute (*i*). But, where the right is given generally by a statute, it cannot be defeated by inference (*k*). Where a statute gives a right of appeal to “a person who shall think himself aggrieved,”—this means a person who is *immediately* aggrieved by the act done, and not one who is *consequently* aggrieved (*l*).

In most cases, the statute giving the right of appeal limits the time

(i) *R. v. Justices of Surrey*, 2 T. R. C. 64, 509.

(k) *R. v. Middlesex Justices*, 3 B. & Adol. 938.

(l) *R. v. Cumberland Justices*, 1 B. &

to the next sessions, and requires that the party appealing shall give a certain notice, and enter into a recognizance with sureties conditioned to try the appeal, and to abide the judgment of the court thereon, and to pay such costs as shall be awarded. But it does not seem, that either a notice or recognizance is necessary, unless expressly required by the statute (*m*); and where a notice is required, it need not be in writing, unless the statute so directs (*n*). If no particular time is limited for giving the notice, it must be given in a reasonable time.

The grounds of the appeal need not be stated in the notice, unless required by the statute; and when they are required, and the appeal is against a conviction on the merits, and not on a mere matter of form, it is sufficient to state, as the grounds of the appeal, that the party is not guilty of the offence (*o*).

The following are the usual forms of the notice and recognizance; but they must be adapted to any particular directions of the statute giving the appeal:—

1. Notice of Appeal.

To A. B. of, &c.

I hereby give you notice, that I intend at the next general quarter sessions of the peace to be holden in and for the county of Kent, at Maidstone in the said county, to appeal against a certain conviction of me C. D., by J. P., esq., one of her Majesty's justices of the peace for the said county, for having, as therein alleged, on the — day of —, [*stating the offence as in the conviction*], and that the cause and grounds of such appeal are, that I am not guilty of the said offence; and that [*stating any other grounds of appeal*]. Dated this — day of —, 1841.

C. D.

2. General Form of Recognizance to try an Appeal against a Conviction.

Kent, } Be it remembered, that on the — day of —, in the fifth year of
to wit. } the reign of our Sovereign Lady Victoria, by the grace of God, of the
united kingdom of Great Britain and Ireland Queen, defender of the faith, C. D. of
—, in the said county, [labourer]; E. F. of —, in the said county, [ycoman], and
G. H. of —, in the said county, [farmer], personally came before me J. P., one of
her Majesty's justices of the peace for the said county, and acknowledged themselves
severally to owe to our said lady the Queen the sum of — pounds each, to be made
and levied of their goods and chattels, lands and tenements, respectively, to the use of
our said lady the Queen, her heirs and successors, if default shall be made in the con-
dition following:

Whereas by a certain conviction, under the hand and seal of L. M., one of her Ma-

(*m*) *R. v. Justices of Essex*, 4 B. & Ald. 626; *R. v. Justices of Surrey*, 5 B. & Ald. 539.
276; *R. v. Justices of Kent*, 6 M. & S. 258.

(*o*) *R. v. Justices of Newcastle upon Tyne*, 1 B. & Adol. 933.

jeſty's juſtices of the peace for the county aforeſaid, the ſaid C. D. is convicted, for that he the ſaid C. D. on, &c. [*ſtating the offence*]; and whereas the ſaid C. D. hath given notice unto — of his intention to appeal againſt the ſaid conviction, and of the cauſes and grounds thereof: Now the conditions of this recognizance is ſuch, that if the above-bounden A. B. ſhall perſonally appear at the next general quarter ſeſſions of the peace to be holden at Maidſtone, in and for the ſaid county, and ſhall then and there try ſuch appeal, and abide the judgment of the ſaid court of general quarter ſeſſions thereupon, and pay ſuch coſts as ſhall be by the ſaid court awarded, then this recognizance to be void.

Taken and acknowledged before me,

J. P.

Apples and Pears—See Fruit.

Apprehension of Offenders.

And ſee *poſt*, Warrant.

WHERE a party may be apprehended, without a Warrant.]—A juſtice may order, by word only, any perſon to arreſt an offender committing a felony, or breach of the peace in his preſence (*p*). So a conſtable may arreſt any one, without a warrant, for a felony, or breach of the peace committed in his view (*q*); or if he has reaſonable cauſe to ſuſpect that a felony has been committed (*r*), or on a reaſonable charge of felony made by ſome other perſon, although it ſhould afterwards appear that no felony had been committed (*s*), and although the charge may have been improperly expreſſed (*t*). But ſome particular charge muſt be actually made to the officer (*u*), unleſs he himſelf has *reaſonable cauſe to ſuſpect* that a felony has been committed. So the conſtable is juſtified in apprehending a party without a warrant, in order to prevent the probable commiſſion of a felony (*y*), or even of a battery (*z*); as if one threaten to kill another, or do him ſome bodily harm, and the party threatened complain to the conſtable forthwith.

A private perſon may alſo arreſt any one in the act of committing a felony, or after a felony has been committed in his preſence, or where any one is attempting to commit a felony in the night (*a*). But he cannot arreſt another on mere ſuſpicion of felony, unleſs he has

(*p*) 1 Hale, 86.

(*q*) 2 Hale, 91.

(*r*) *Beckwith v. Philby*, 6 B. & C. 635;
Lawrence v. Hedger, 3 Taunt. 14.

(*s*) *Samuel v. Payne*, Doug. 359,

(*t*) *R. v. Ford*, Russ. & Ry. 329.

(*u*) *R. v. Thompson*, 1 Mood. C. C. 80.

(*y*) 2 Hale, 88.

(*z*) *Dalt. c.* 116, s. 3.

(*a*) *R. v. Hunt*, 1 Mood. C. C. 93.

reasonable and probable ground of suspicion, and *unless a felony has been actually committed* (b). And it is said by Serjeant *Hawkins*, that even with respect to inferior offenders, such as suspicious night-walkers, or common notorious cheats, going about the country with false dice, and being actually caught playing with them,—a private person may lawfully arrest any of such offenders, in order to carry him before a magistrate. For the public good, he adds, requires the utmost discouragement of all such persons; and the restraining of private persons from arresting them, without a warrant from a magistrate, would often give them an opportunity to escape. For which reason, he says, that the arrest of any other offenders by private persons, for offences in like manner *scandalous and prejudicial* to the public, may be justified (c). Therefore any private person may apprehend others fighting, for the purpose of delivering them to a constable; and he may likewise stop those whom he shall see coming to join either party (d).

By several recent statutes, also, a power is given to private persons to apprehend parties in the commission of various offences, as the Vagrant Act, 5 Geo. 4, c. 83, s. 6; the new Larceny Act, 7 & 8 Geo. 4, c. 29, s. 63; the Malicious Trespass Act, 7 & 8 Geo. 4, c. 30, s. 28; and many others.

Where the Arrest is by Warrant.—If a constable executing a warrant is commonly known to be a peace officer, that is, a bailiff *juratus et cognitus*, he need not show his warrant; but otherwise where he acts out of his own district, and is not commonly known to be such officer, provided the party arrested demands to see it (e). And in all cases, for the officer's protection against an action, if the party arrested demand a sight of the warrant; the officer is bound to show it to him, and to permit him to take a copy of it; but he is in no case required to part with the warrant, for that is his only justification (f). Nor need he return the warrant itself to the justice who issued it, but keep it for his own protection (g). After the arrest, the officer should forthwith bring the party before a magistrate, according to the direction of the warrant; but if the time be unreasonable, as in or near the night, or if there be danger of a rescue, or the party be sick, then the officer may keep the party in a house, or any place of

(b) *Cald.* 291; 6 B. & C. 638, *per* Lord Tenterden.●

(c) 2 *Hawk.* c. 12, s. 20.

(d) 1 *Hawk.* c. 63, s. 11.

(e) 1 *Hale*, 459; *Fost.* 320.

(f) 1 *East*, P. C. 319.

(g) *Ld. Raym.* 1196.

security, till such time as it may be reasonable to bring him before the magistrate. And after the officer has brought him to the justice, yet he is still in the custody of the officer, until the justice commits, bails, or discharges him (*h*). The officer is bound to execute the warrant within the district for which the jurisdiction of the magistrate extends; and he will (by 24 Geo. 2, c. 44,) be in that case indemnified, even though the magistrate should not have strict authority to grant it.

By 5 Geo. 4, c. 18, s. 6, a constable may execute the warrant out of his own precinct, although he is not specially named in the warrant, provided it be within the jurisdiction of the magistrate granting or backing the warrant.

As to the granting of a warrant by a justice, see *post*, **Warrant. Justice.**

The Manner of making an Arrest.—Mere words will not make an arrest, without laying hold on the person, or otherwise confining him; but if an officer comes into a room and locks the door, telling the party that he arrests him, this will constitute an arrest (*i*). The party arrested should have due notice of the officer's authority, if he is previously unacquainted with his business (*h*), but otherwise, as has been before observed, if the officer and his business are known (*l*); or if the circumstances are such that the party must know why he is about to be apprehended (*m*). If the officer has no warrant, or the arrest is made in the night, a notification of his authority is then more essential (*n*). And where a private person interferes, in case of a sudden affray, he ought to give notice of the cause of his interference, in order that those engaged in the affray may not suppose he comes to act as a party (*o*).

Breaking Doors, &c.—In the execution of any criminal process, if the officer signify to those in the house the cause of his coming, and demand admittance, he may afterwards, in case of refusal, break open doors and windows in order to arrest the party against whom the process is directed; and this, whether it is the party's own house, or the house of a stranger (*p*). In the latter case, however, where the officer is acting without the sanction of a warrant, he

(*h*) 2 Hale, 120.

(*i*) 2 Hawk. 129.

(*k*) 1 Hale, 458, 470.

(*l*) *Mackally's case*, 9 Co. 69; *Pew's case*, Cro. Car. 83.

(*m*) *R. v. Howarth*, Mood. C. C. 207.

(*n*) 1 Hale, 460.

(*o*) Fost. 310.

(*p*) 2 Hale, 117.

becomes a trespasser, unless the party is in the house; for he cannot then break open the house of a *stranger*, on mere suspicion (*q*). And, without a warrant, it is said that he is not justified in breaking any door (*r*), unless the party apprehended is guilty of the offence imputed to him. But Lord *Hale* maintained a contrary opinion upon this point, where a *charge* of felony is laid before the constable (*s*). And doors may be broken, either by an officer, or any private person, without a warrant, in order to apprehend a party upon fresh pursuit, who is *known* to have committed treason or felony. But a *private person* cannot, unless acting in the aid of an officer having a warrant, break open doors to arrest a party, although upon reasonable ground of suspicion, if the party suspected be not proved to be actually guilty (*t*).

There are certain other cases where an officer may break open doors *in the execution of process*, as where process of *contempt* is issued against a party by any of the courts of justice (*u*), upon process of outlawry, or a writ of *habere facias possessionem* in an action of ejectment, or on process of forcible entry and detainer; or on the warrant of a justice for levying a penalty on a conviction on any statute, which gives the whole or a portion of the penalty to the crown (*x*). In the last case, however, the officer, if required, must (by 27 Geo. 2, c. 20) show the warrant to the party against whom it is issued.

There are also some cases of *misdeemeanor*, in which an officer is justified in breaking open doors, even without a warrant. As, where there is an *affray* in a house, in the view or hearing of the officer; or when those who have made an affray in his presence fly to a house, and are *immediately pursued* by him (*y*); where there is a *disorderly drinking or noise in a house*,—*especially in inns, taverns, and ale-houses at an unseasonable time of night*; or wherever a person *escapes from a lawful arrest, and shelters himself in a house*, being followed upon fresh pursuit (*z*).

For the form of a warrant to apprehend an offender, see *post*, **Warrant**.

(*q*) 2 Hale, 103; Fost. 321.

(*r*) 2 Hawk. c. 14, s. 7.

(*s*) 1 Hale, 583; 2 Hale, 92.

(*t*) 1 Hale, 82.

(*u*) *Burdett v. Abbott*, 14 East, 157,

per Lord Ellenborough.

(*x*) 2 Hawk. c. 14, s. 5.

(*y*) 2 Hawk. c. 14, s. 8.

(*z*) 2 Hawk. c. 14; 2 Hale, 95. And

see 1 Deac. Com. Law, 50, *et seq.*

Apprentices.

THIS subject it may be expedient to consider in the following order:—

<p>1. <i>Who are compellable to take Parish Apprentices</i> 40</p> <p>2. <i>Of the Binding</i>..... 42</p> <p>3. <i>Change of Residence of the Master</i> .</p> <p>4. <i>Assigning and Discharging Apprentices</i> 43</p> <p>5. <i>Recovery and Application of Penalties, and Forms of Proceedings</i></p>	<p style="text-align: right;">under the preceding heads 44</p> <p>6. <i>Misbehaviour of the Master</i> 53</p> <p>7. <i>Misbehaviour of the Apprentice</i> .. 55</p> <p>8. <i>Registry of Parish Apprentices</i> .. 67</p> <p>9. <i>Where the Apprentice enlists for a Soldier</i> ib.</p> <p>10. <i>Apprentice to the Sea Service</i> ib.</p>
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For *Apprentices to Chimney Sweepers*, see *post*, **Chimney Sweepers**.
 For *Settlement by Apprenticeship*, see *post*, **Poor**.

1. *Who are compellable to take Parish Apprentices.*]—All persons who, by their profession or manner of living, have occasion to keep servants, whether gentlemen of fortune, clergymen, or tradesmen, are liable to take parish apprentices (*a*). But the overseers cannot compel any person to take an apprentice, without the approval of two justices; and if the master is dissatisfied, he may appeal to the sessions (*b*). Occupiers of tithes are liable to take them (*c*); as well as all persons occupying lands in the parish, notwithstanding they reside elsewhere (*d*); but not mere strangers, who stand in no relation to the parish (*e*). And by the annual Mutiny Act (*f*) officers of her Majesty's forces, residing in barracks, or elsewhere, under military law, are exempt from this liability.

The justices cannot order the master to pay *wages* to a parish apprentice who is forced upon him, nor can they order the master to give him anything when the term is ended; they can only order him a *maintenance* as an apprentice during the term of his apprenticeship (*g*).

By 8 & 9 Will. 3, c. 30, s. 5, the persons to whom poor children are appointed to be bound apprentice, pursuant to the 43 Eliz. c. 2, s. 5, are required to receive and provide for them according to the indenture signed by the justices, and also to execute the other part of the indenture; and in case of refusal to do so, on oath being made thereof by one of the churchwardens or overseers before *two justices*,

(*a*) Dalt. 143; 1 Bl. Com. 426.

(*b*) Dalt. 143.

(*c*) R. v. *Saltern*, Cald. 444.

(*d*) R. v. *Clapp*, 3 T. R. 107; R. v. *Tunstead*, ib. 523; R. v. *Barwick*, 7

T. R. 33.

(*e*) *Per* Ld. Kenyon, 3 T. R. 113.

(*f*) See 1 Will. 4, c. 15, s. 68.

(*g*) R. v. *Wagstaff*, 1 Bott, 609.

he shall forfeit 10*l.*, to be levied by distress, for the use of the poor; but saving always his right of *appeal* to the next sessions.

2. *Of the Binding.*—By 43 Eliz. c. 2, s. 5, the churchwardens and overseers, or the greater part of them, with the consent of *two justices*, may bind any poor children to be apprentices where they shall see convenient,—if males, till twenty-four years of age; if females, till twenty-one years of age, or marriage.

And by 20 Geo. 3, c. 36, the *directors* and *acting guardians* of the poor for any *incorporated hundred or district* may execute the indentures for binding such poor children, in like manner as the churchwardens and overseers of any parish.

By 3 & 4 Will. 4, c. 63, s. 2, where the indentures are executed by any officers of any hundreds, parishes, or other districts *incorporated* by act of parliament, by affixing thereto *the seal of the corporation*, such execution is declared to be valid.

By 56 Geo. 3, c. 139, s. 1, before any child is bound, he must be taken before *two justices*, who are to inquire into the propriety of the binding, and, if satisfied, make an order for that purpose; which order must be referred to in the indenture of apprenticeship, and the justices must sign their allowance of the indenture, before it is executed by any of the other parties. No child can be bound to a person residing more than forty miles from the place to which the child belongs, unless it belongs to a place more than forty miles distant from London; in which case the justices must make a special order distinctly specifying the grounds on which they allow the binding. And by *sect. 11*, no parish indenture is valid, unless it is so approved of by two justices under their hands and seals.

By 4 & 5 Will. 4, c. 76, s. 61, the justices, or one of them, must ascertain whether the regulations of the Poor Law Commissioners have been complied with, and certify the same at the foot of the indenture and the counterpart, in such form and manner as the commissioners may direct; and, until so certified, no such indenture shall be valid.

By 56 Geo. 3, c. 139, s. 2, where the residence of the master is in a *different county*, the indenture must be allowed, as well by *two justices* of that county, as by *two justices* of the county from which the child is bound. But no justice of the county, into which the child is bound, can allow the indenture, who is engaged in the same business as the intended master; and notice must be given to the overseers of that county, before any justice can allow the indenture.

By *sect. 3*, the allowance by justices of the county, within which the place of service is situated, is declared to be valid, although the place of the intended service may be situate in a town, or liberty, where other justices have exclusive jurisdiction.

But by 3 & 4 Will. 4, c. 63, s. 1, the allowance by two justices acting both for the county from which the child is bound, and the county where the place of the intended service is situate, is declared to be as valid, as if the indenture had been allowed by two justices of one county, and two distinct justices of the other county.

And by *sect. 3*, where the apprentice is bound within any city, borough, or town corporate, the indentures are to be allowed by one justice for the county, and one justice for the city, borough, or town corporate.

By 56 Geo. 3, c. 139, s. 5, no settlement can be gained by any apprentice, unless such order is made and such allowance signed as before mentioned.

By *sect. 6*, if any overseer shall bind an apprentice without having obtained such order and allowance, or any person shall receive an apprentice without such order and allowance, he incurs a penalty of 10*l*.

By *sect. 7*, no child can be bound, until he has attained the *age of nine years*.

Under the above statute of 56 Geo. 3, c. 139, s. 2, the justices have a discretion to determine, not merely as to the fitness respectively of the master and apprentice, but on the propriety of the binding generally (*h*). The allowance of the indenture by the justices is an act of a judicial nature, and therefore it is necessary that they should be, and confer, together, when their assent is given to it (*i*): but one magistrate may sign it when alone, if he be present when the other executes it, and they both agree to the propriety of the measure (*h*). If the indenture be not duly allowed by two justices, when necessary that it should be so, it will be void *ab initio*, and service under it will confer no settlement (*l*).

3. *Change of Residence of Master.*—By 56 Geo. 3, c. 139, s. 8, if the master removes his residence or establishment of business out of the county, or forty miles from the place where the same was when the child was bound apprentice, he must, fourteen days pre-

(*h*) *R. v. Mills*, 2 B. & Adol. 578.
(*i*) *R. v. Hamstall Redware*, 3 T. R.
381.

(*h*) *R. v. Winwick*, 8 T. R. 454.
(*l*) *R. v. Stoke Damarel*, 7 B. & C. 563;
1 M. & R. 458; 1 M. & R. M. C. 155.

vious to such removal, give a written notice to the churchwardens or overseers of the place where the apprentice shall then reside, unless the master resides in such place under certificate, in which case he is to give the like notice to the churchwardens or overseers of the place where the apprentice is legally settled. The apprentice must be taken before *two* justices for the county wherein he shall be then serving, who are to inquire whether it is fit that the apprentice should continue in his service, or be discharged therefrom, or bound or assigned over to any other person; and shall thereupon make such order as they shall see fit. The justices may require the master to pay the amount of the premium received with the apprentice, or any portion of it, for the expense of assigning or binding the apprentice to any other person to be approved by the justices, and such person is to be subject to the same rules and regulations as the first master. If any master shall remove and take the apprentice to any other place, without such order, or shall wilfully abandon and leave the apprentice, without giving such notice, he forfeits 10*l.* to the churchwardens and overseers of the parish wherein the apprentice shall be legally settled, for the use of the poor; provided an information is exhibited within three calendar months after the commission of the offence.

4. *Assigning and Discharging Apprentices.*—By 56 Geo. 3, c. 139, s. 9, it shall not be lawful for any master to put away or transfer any parish apprentice to any other, or in any way to discharge or dismiss him from his service, without such consent of justices as is directed by the 32 Geo. 3, c. 57, and no settlement shall be gained by the service of such apprentice, after such putting away or transfer, unless with such consent as aforesaid. And by sect. 10, any person who shall so put away or transfer any parish apprentice to another, or in any way discharge or dismiss him, shall forfeit not exceeding 10*l.*

By the 32 Geo. 3, c. 57 (the statute above referred to), it is provided by sect. 7, that any master may, with the consent of *two* justices of the place where he shall dwell, testified under their hands, *assign* the apprentice to any one who is willing to take him for the residue of his apprenticeship; provided such person shall by writing under his hand declare his acceptance of such apprentice, and acknowledge himself to be bound by the agreements and covenants contained in the indenture on the part of the master.

When Master insolvent.—By 32 Geo. 3, c. 57, s. 8, where the

master becomes insolvent, or is so far reduced in circumstances as to be unable to maintain or employ his apprentice, two justices of the place where the master lives may, on the master's application that the apprentice may be discharged for these reasons, inquire into the matter, and discharge the apprentice, in case they shall find the statement to be true. But, by sect. 9, this enactment is not to extend to apprentices, with whom more than 5*l.* has been given.

Where the Master dies.]—By 32 Geo. 3, c. 57, s. 1, in case of the death of the master of a parish apprentice with whom no more than 5*l.* has been paid, the covenant in the indenture for the maintenance of the apprentice shall not continue in force for more than three calendar months after the master's death, during which period the apprentice shall serve the executors of the master.

By sect. 2, within three calendar months of the master's death, any two justices of the place where the master shall have died, may, on the application of the widow, son, daughter, brother, sister, or the executors or administrators of the master, order that the apprentice shall serve any one of them, *if they formed part of the family of the deceased master*, during the residue of the term.

By sect. 4, if no such application is made within three calendar months, or in case the justices shall not think fit that the apprenticeship should be continued, it shall be determined.

5. *Recovery and Application of Penalties, and Forms of Proceedings under the preceding heads.*]—All penalties under the 56 Geo. 3, c. 139 are declared (by sect. 12) to be recoverable before two justices, who may (by sect. 13) direct them to be distributed either to the informer, or to the poor of the parish, or in the binding of the apprentice to any other person.

By sect. 14, the penalties may be levied by distress; for want of which the offender may be committed to the common gaol or house of correction for not less than one, nor more than six months. But, by sect. 16, if any offender does not pay a penalty within one calendar month after conviction, the justices may issue their warrant for apprehending and imprisoning him, notwithstanding he may have goods whereby such penalty might have been levied.

Appeal.]—Sect. 17 gives an appeal to the session within three calendar months, upon giving notice in writing to the justices and the party interested within twenty-one days, and entering into a recognizance with two sureties to abide the judgment of the court and to pay costs.

Form of Conviction.—By sect. 15, the conviction is required to be in the form following:—

Be it remembered, that on the — day of —, in the year of our Lord —, — is convicted before us — and —, two of his Majesty's justices of the peace for the county of —, upon the information of —, for that [*here state the offence*], contrary to the form of the statute passed in the fifty-sixth year of the reign of his Majesty king George the Third, intituled "An Act to regulate the Binding of Parish Apprentices," and for which offence we do adjudge that the said — shall forfeit and pay the sum of —, to be paid and applied as follows [*here state the application of the penalty*]; and in case such penalty shall not be paid by the said —, or levied by distress upon — goods and chattels within — days from the date of this conviction, we adjudge that the said — shall be imprisoned in — for the space of —. Given under our hands the day and year first above-mentioned.

J. P.
M. R.

1. *Order from two Justices empowering Overseers of the Poor to bind a poor Child Apprentice, pursuant to the 56 Geo. 3, c. 139, s. 1.*

County of —, } Whereas A. B. and C. D., overseers (m) of the poor of the parish
to wit. } of —, in the county of —, have on this — day of —, in
the year of our Lord 1841, at the parish of — in the said county, brought before us
J. C. and J. P., esquires, two of her Majesty's justices of the peace in and for the said
county, T. F. a poor male child exceeding the age of nine years, that is to say, of the
age of — years and upwards, belonging to and having a settlement in the parish of
—, in the said county, whose parents F. F. and C. F. are not able to maintain such
child; and the said A. B. and C. D., as such overseers as aforesaid, have proposed to
us the said justices to bind such child to be an apprentice to one G. H. of the parish of
—, in the county of —, farmer, and residing within the distance of forty miles
from the parish and place to which the said child belongs, and as an apprentice with
him the said G. H., to dwell and serve until the said T. F. shall come to the age of
— years, [*or if a female child, "or until the time of her marriage, which shall first
happen,"*] according to the statutes in such case made and provided. And whereas we the
said justices have now here inquired into the propriety of binding such child apprentice
to the said G. H., and have also particularly inquired and considered whether the said
G. H. doth reside and have his place of business within a reasonable distance from the
place to which such child doth so belong as aforesaid, having regard to the means of com-
munication between such places, and whether any circumstances make it fit, in the
judgment of us the said justices, that such child should be placed apprentice at a
greater distance. [And whereas we also have now here examined the said E. F. and
C. F., the father and mother of the said child, who reside in the said parish and place
to which the said child doth belong (n).] And we have likewise particularly inquired
as to the distance of the residence and place of business of the said G. H., and the
means of communication therewith; and whereas also we the said justices have now

(m) The 56 Geo. 3, c. 139, s. 1, recognizes the power of the *overseers* alone, independently of the churchwardens, to bind out the apprentice.

(n) If the parents were not examined, the words between the brackets must be

omitted. But it is advisable, that at least one of the parents of the child should be examined by the magistrates, if residing in or near the place to which the child belongs.

have inquired into the circumstances and character of the said G. H., and on such examination and inquiry, we, the said justices, think it proper that such child should be bound apprentice to the said G. H. Now, therefore we, the said justices, do declare, that the said G. H. is a fit person, to whom the said child may be properly bound apprentice as aforesaid; and we do hereby order and direct that the said A. B. and C. D., the overseers of — aforesaid, being the place to which such child doth belong, shall be and are at liberty to bind such child apprentice accordingly. Given under our hands and seals this — day of —, in the year of our Lord 1842.

J. C. (L. s.)

J. P. (I. s.)

2. *Indenture of Apprenticeship, in pursuance of the above Order, and according to the requisitions of the Stats. 43 Eliz. c. 27, 32 Geo. 3, c. 57, s. 1, and 56 Geo. 3, c. 139, s. 1.*

This indenture, made the — day of —, in the fifth year of the reign of our Sovereign Lady Victoria, by the grace of God, of the united kingdom of Great Britain and Ireland Queen, defender of the faith, and in the year of our Lord 1842, witnesseth that J. K. and L. M., churchwardens⁽ⁿ⁾ of the parish of —, in the county of —, and A. B. and C. D., overseers of the poor of the said parish, by and with the consent of J. C. and J. P., esquires, two of her Majesty's justices of the peace for the said county, whose names are hereunto subscribed, one of them, to wit, —, esq., being of the *quorum*, and by virtue and in pursuance of an order in writing made by and under the hands and seals of the said J. C. and J. P., in pursuance of the statute in that case made and provided, bearing date the — day of — instant, have put and placed, and by these presents do put and place, T. F. aged — years, or thereabouts, a poor child of the said parish of —, apprentice to G. H. of —, &c., with him to dwell and serve from the day of the date of these presents, until the said apprentice shall accomplish his full age of — years, [or if a female, "or until the time of her marriage, which shall first happen,"] according to the statutes in that case made and provided; during all which term the said apprentice his said master shall faithfully serve in all lawful business, according to his power, wit, and ability, and honestly, orderly, and obediently in all things demean and behave himself towards his master and all his during the said term. And the said G. H., for himself, his executors and administrators, doth covenant and grant to and with the said churchwardens and overseers, and every of them, their and every of their executors and administrators, and their and every of their successors for the time being, by these presents, that he the said G. H. shall and will teach and instruct the said T. F., or cause him to be taught or instructed, in the art, trade, or mystery of —, in the best way and manner that he can during the said term [here insert any special or particular covenant,] and shall and will during all the term as aforesaid find, provide, and allow unto the said T. F. competent and sufficient meat, drink, apparel, lodging, washing, and all things necessary and fit for an apprentice. Provided always, that the said last-mentioned covenant on the part of the said G. H., his executors and administrators, shall continue and be in force for no longer time than three calendar months next after the death of the said G. H., in case he the said G. H. shall happen to die during the continuance of such apprenticeship, according to the provisions of an act passed in the thirty-second year of the reign of King George the Third, entitled "An Act for the further Regulation of Parish Apprentices," and also of another act passed in the fifty-sixth year of the reign of King George the Third, entitled "An Act to regulate the Binding of Parish Appren-

(n) See note (m), ante p. 45.

tices." And the said G. H. shall and will also during such term as aforesaid provide for the said apprentice, so that he be not in any way a charge to the said parish of —, or the parishioners of the same; but of and from all such charge shall and will save the said parish and parishioners harmless and indemnified during the said term. In witness whereof the parties above-mentioned have to these present indentures interchangeably set their hands and seals the day and year first above written.

Sealed and delivered in the presence of

(*Allowance of the Justices.*)

We, whose names are hereunder written, justices of the peace acting in and for the county of — aforesaid (whereof one is of the *quorum*), do consent to the putting forth T. F. an apprentice, according to the intent and meaning of this indenture, and do sign and seal this our allowance of such indenture, before the same hath been executed by any of the other parties thereto, in pursuance of the statute in such case made and provided. Given under our hands and seals this — day of —, in the year of our Lord 1841.

J. C. (L. S.) (o)

J. P. (L. S.)

3. *Special Order under 56 Geo. 3, c. 139, s. 1, for binding a poor Child Apprentice at a greater distance than Forty Miles from the place of its Settlement, where the intended Master lives in another County (p).*

County of Lancaster, } Whereas A. B. and C. D., overseers of the poor of the
to wit. } parish of —, in the county of Lancaster, have on this — day of —, in the year of our Lord 1841, at the parish of —, in the said county, brought before us J. C. and J. P., esquires, two of her Majesty's justices of the peace acting in and for the said county, T. F. a poor male child of the age of — [*exceeding nine years*] and upwards, belonging to and having a settlement in the said parish of —, in the said county, and whose parents E. F. and C. F. are not able to maintain him; and the said A. B. and C. D., as such overseers as aforesaid, have proposed to us the said justices to bind such child to be an apprentice to one G. H. of the parish of —, in the county of —, he the said G. H. residing and having an establishment in trade, in which it is intended such child shall be employed, out of the said county of Lancaster, at a greater distance than forty miles from the parish of — aforesaid, to which such child so belongs as aforesaid, and which said parish is also more than forty miles distant from the city of London, to the intent that the said T. F. may dwell with and serve the said G. H. as an apprentice, until the said T. F. shall come to the age of — years [*or if a female, add, "or until the time of her marriage, which shall first happen,"*] according to the statutes in such case made and provided. And whereas we, the said justices, have now here inquired into the propriety of binding such child apprentice, &c. [*state the inquiries of the justices as in the form No. 1.*] And whereas also we the said justices have particularly inquired into and considered the grounds for allowing of the apprenticing such child to the said G. H. at a greater distance than forty miles from the said parish to which such child belongs, and it appears to us on such inquiry [*here set out the reasons, according to the fact*], that there is no

(o) By 4 & 5 Will. 4, c. 76, s. 1, the justices are moreover required to certify at the foot of the indenture, whether the regulations of the Poor Law Commissioners have been complied with, in such form

and manner as the commissioners may direct, otherwise the indenture will be void.

(p) See *ante*, p. 41.

person within the distance of forty miles, to whom such child may be properly bound apprentice; and therefore we, the said justices, think it proper that such child should be bound apprentice to the said G. H., notwithstanding he resides and has an establishment in trade at a greater distance than forty miles from the said parish to which such child belongs. Now, therefore, we the said justices do declare, &c. [as in the form No. 1 to the end.]

4. Allowance of the Indenture by four Justices, pursuant to the last Order, and according to the requisitions of the Stat. 56 Geo. 3, c. 139, s. 2, where the Justices do not act for both Counties. See 3 & 4 Will. 4, c. 63, s. 1.

We, J. C. and J. P., esquires, whose names are hereunder written, two of her Majesty's justices of the peace in and for the county of Lancaster, and B. O. and W. Y., esquires, whose names are also underwritten, two of her Majesty's justices for the county of Chester, whereof one is also of the *quorum*, do consent to the putting forth —, of —, as an apprentice, according to the intent and meaning of this indenture, it having been proved upon oath before us, that due notice in writing has been given by the overseers of the poor of the parish of — [the parish binding the apprentice], to the overseers of the poor of the parish of —, [the parish in which the apprentice is to serve] of such binding being intended, and we do therefore sign this our allowance of such apprenticeship, in pursuance of the statute in such case made and provided. Dated this — day of —, 1842.

5. Order of Justices (to be indorsed on the Indenture), in case the original Master removes into another County, or forty Miles distant from the Parish where the Apprentice was bound, either for the Apprentice to continue with such original Master, or to be discharged, or assigned over to another person. See 56 Geo. 3, c. 139, s. 8 (q).

County of Stafford, } Whereas G. H., the master of the apprentice in the within-
to wit. } written indenture mentioned, is about to quit his present residence at —, in the county of Stafford, and to remove out of the same county, or at least forty miles from the place of residence where the within mentioned T. F. was bound apprentice, and has given fourteen days previous notice in writing to the churchwardens and overseers of the poor of the parish of — [the parish in which the apprentice resides at the time of removal]: And whereas the said T. F., the apprentice, as also the said G. H., and the overseers of the poor of the said parish of —, did, on the day of the date hereof, appear before us L. M. and O. P., esquires, two of her Majesty's justices of the peace in and for the said county of Stafford, and upon inquiry we do find [here insert whether the apprentice is to continue with his master in another parish, or whether he is to be assigned or discharged], and we the said justices do hereby order, that the said T. F., the apprentice aforesaid, may [here insert as above, and if the apprentice is to be assigned, add, " and we do further order, that the said G. H. the former master of the said T. F., do pay to —, the intended new master of the said T. F., the sum of — £. as and for the expense of assigning or binding the said apprentice to the said — as aforesaid, being in our judgment a reasonable part and proportion of the original apprentice fee paid to the said G. H. on the said T. F. being bound an apprentice to him.] Given under our hands and seals this — day of —, 1842.

L. M. (L. S.)

O. P. (L. S.)

6. *Assignment of a Parish Apprentice, with the consent of two Justices, by indorsement on the Indenture or Counterpart, under 32 Geo. 3, c. 57, s. 7 (r).*

County of } Be it remembered, that the within named F. M. [*the master*] by and
 Kent. } with the consent and approbation of J. P. and K. P., esquires, two of her
 Majesty's justices of the peace in and for the county of Kent, whose names are sub-
 scribed to the consent hereunder written, doth hereby assign A. P., the apprentice
 within named, unto N. M. [*the new master*] to serve him during the residue of the term
 within mentioned, and that he the said N. M. doth hereby agree to accept and take the
 said A. P. as an apprentice, for the residue of the said term, and doth hereby acknow-
 ledge himself, his executors and administrators, to be bound by the agreements and co-
 venants within contained, on the part of the said F. M. to be done and performed,
 according to the true intent and meaning of the within indenture, and pursuant to the
 provisions of an act passed in the thirty-second year of the reign of King George the
 Third, intituled "An Act for the further regulation of Parish Apprentices." In wit-
 ness whereof we, the said F. M. and N. M., have hereunto set our hands this — day
 of —, 1842.

F. M.

N. M.

We, two of her Majesty's justices of the peace above mentioned, do consent thereto.
 Witness our hands this — day of —, 1842.

J. P.

K. P.

7. *Assignment by a separate instrument.*

County of } Whereas it appears unto us, J. P. and K. P., esquires, two of her Ma-
 —. } jesty's justices of the peace in and for the county of —, whose names
 are subscribed to the consent hereunder written, that A. P. was bound an apprentice
 by the churchwardens and overseers of the poor of the parish of —, to F. M. of the
 same parish, by indenture bearing date on or about the — day of —, until the
 said A. P. should attain his age of twenty-one years; Now be it remembered, that
 the said F. M., by and with the consent and approbation of us the said J. P. and K. P.,
 doth hereby assign, &c. [*to the end of the last precedent.*]

8. *Order of two Justices, directing a Parish Apprentice to continue with the Widow, &c. of the deceased Master, according to the form given by the 32 Geo. 3, c. 57, s. 2, schedule (B.) (s).*

County of } Whereas, F. M. [*the master*], within named, late of the parish of
 —. } — in the said county, died on the — day of —, being within
 three calendar months now last past, we, two of her Majesty's justices of the peace for
 the county aforesaid, whose names are hereunto subscribed, on the application and at
 the request of A. M., widow [*or as the case may be*] of the said F. M., living with and
 being part of the family of the said F. M. at the time of his death, do hereby order
 and direct, that A. P., the apprentice within named, who was in the service and actual
 employment of the said F. M. at the time of his death, shall serve the said A. M. as
 his apprentice, for the residue of the term of such apprenticeship within mentioned,
 according to the provisions of an act passed in the thirty-second year of the reign of
 King George the Third, intituled "An Act for the further Regulation of Parish Ap-
 prentices." Witness our hands, this — day of —.

I, the above named A. M., do hereby declare, that the above order is made at my request, and that I do accept the said A. P. as my apprentice, according to the terms and covenants contained in the said indenture, and according to the provisions of the said act. Witness my hand, the day and year above written.

9. *Information for not receiving a poor Apprentice, under the 8 & 9 Will. 3, c. 30, s. 5. (t)*

Essex, } The information and complaint of A. B., one of the overseers of the
to wit. } poor of the parish of — in the said county, made upon oath before me
J. P., esq., one of her Majesty's justices of the peace in and for the said county, at
— in the same county, on the — day of —, in the year of our Lord 1842.
The said A. B. says, that he, together with the churchwardens and other overseers of
the poor of the said parish, by the assent of J. P. and M. W., esquires, two of her
Majesty's justices of the peace in and for the said county, dwelling near to the said
parish of —, one whereof is of the quorum, did endeavour to bind C. D., a poor
male child of the said parish, whose parents are not able to maintain him, apprentice
to E. F. of —, in the said parish, baker, and for that intent did prepare and duly
perfect one pair of indentures, pursuant to the statute in that case made and provided,
which said pair of indentures was signed and confirmed by the said justices: And the
said A. B. further says, that the said E. F. hath refused and doth refuse to receive and
provide for the said C. D. as an apprentice, and also to execute another part of the said
indentures, the same being duly tendered to him by this examinant for that purpose,
whereby the said E. F. hath forfeited the sum of 10*l.*, for the use of the poor of the
said parish in which the said offence has been committed. Whereupon the said A. B.
prays the judgment of two of her Majesty's justices of the peace for the said county in
the premises, and that the said E. F. may be summoned to answer the said complaint,
and be further dealt with according to law.

10. *Summons thereon.*

Essex, }
to wit. } To the constable of —, in the said county.

Whereas, A. B., one of the overseers of the poor of the parish of — in the said
county, hath made a complaint upon oath to me, J. P., esq., one of her Majesty's
justices of the peace for the county of Essex, that E. F. of the said parish, baker, an
inhabitant of the said parish, hath refused and doth refuse to receive and provide for
C. D., an apprentice duly bound to him by indentures by the churchwardens and
overseers of the poor of the said parish, the said C. D. being a poor child of the said
parish, whose parents are not able to maintain him, and that he the said E. F. hath
also refused and doth refuse to execute the other part of the said indentures, the same
having been duly tendered to him for that purpose, whereby he hath forfeited the sum
of 10*l.*: These are, therefore, in her Majesty's name, to command you to summon the
said E. F. to appear before me, and such other of her Majesty's justices of the peace
in and for the said county as shall be present, at — in the said county, on the —
day of — instant, at the hour of — in the forenoon, to answer unto the said

information and complaint, and to be further dealt with according to law. Given under my hand and seal, this — day of —, in the year of our Lord 1842.

J. P. (L. s.)

11. *Conviction thereon.*

Essex, } Be it remembered, that on the — day of —, in the year of our Lord
to wit. } 1842, at — in the county of Essex, A. B., one of the overseers of the poor
of the parish of — in the said county, personally came before me, J. P., esq., one of her
Majesty's justices of the peace for the said county, and informed me that E. F., &c. [*here
state the offence as in the above information*]: Whereupon the said E. F., after being duly
summoned to answer the said charge, appeared before us this — day of —, at —
in the said county, and, having heard the charge contained in the said information, de-
clared he was not guilty of the said offence, whereupon we the said justices did proceed
to examine into the truth of the charge contained in the said information; and on the
— day of — aforesaid, at the parish of — aforesaid, one credible witness, to
wit, A. B., of — in the said county, upon his oath deposeth and saith, in the presence
of the said E. F., that he the said A. B. is one of the overseers of the poor of the said
parish, and that he, together with the churchwardens and other overseers of the poor of
the said parish, by the assent of J. P. and M. W., esquires, two of her Majesty's
justices of the peace in and for the said county, dwelling near to the said parish, one
whereof is of the quorum, did endeavour to bind the said C. D. apprentice to the said
E. F.; and for that purpose did prepare a pair of indentures, pursuant to the statute in
that case made and provided, which were signed and confirmed by the said justices;
and that he the said A. B., on the — day of — instant, duly tendered to the said
E. F. one part of the said indentures for his execution, but the said E. F. then refused
to execute the same, and still doth refuse so to do, or to receive or provide for the said
C. D. as an apprentice: Wherefore, it manifestly appearing to us that the said E. F. is
guilty of the offence charged upon him in the said information, we the said justices do
hereby convict him of the offence aforesaid, and do declare and adjudge that the said
E. F. hath forfeited the sum of 10*l.*, to be paid to the overseers of the said parish of
—, for the use of the poor of the said parish, according to the form of the statute in
that case made and provided. Given under our hands and seals, this — day of
—, in the year of our Lord 1842.

J. P. (L. s.)

W. O. (L. s.)

12. *Warrant of Distress thereon*

Essex, } To the constable of — in the said county, and to all other constables
to wit. } in and for the said county.

Whereas, the churchwardens and overseers of the poor of the parish of — in the
said county, by the assent of J. P. and M. W., esquires, two of her Majesty's justices
of the peace in and for the said county, dwelling near to the said parish, one whereof
is of the quorum, did endeavour to bind C. D., a poor male child of the said parish,
whose parents are not able to maintain him, apprentice to E. F. of — in the said
parish, baker, and for that intent did prepare and duly perfect one pair of indentures,
pursuant to the statute in that case made and provided, which said pair of indentures
was signed and confirmed by the said justices: And whereas, the said E. F. is duly
convicted before us, J. P. and W. O., esquires, two of her Majesty's justices of the

peace for the said county, as well upon the oath of A. B., one of the overseers of the said parish, as otherwise, for that he the said E. F. hath refused and doth refuse to receive and provide for the said C. D. as such apprentice, and also to execute another part of the said indentures, although the same were duly tendered to him for that purpose, whereby the said E. F. hath forfeited the sum of 10*l.*, for the use of the poor of the said parish: These are, therefore, in her Majesty's name, to command you to make distress of the goods and chattels of the said E. F.; and if within the space of six days next after the making of such distress, the said sum of 10*l.*, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and out of the money arising by such sale, that you pay the said sum of 10*l.* to the overseers of the poor of the said parish of —, where the said offence was committed, for the use of the poor of the said parish, returning the overplus, upon demand, unto the said E. F., the reasonable charges of taking, keeping, and selling the said distress being thereout first deducted: And if no such distress can be made, that then you certify the same unto me, to the end that such further proceedings may be had therein, as to the law doth appertain. Given under my hand and seal, this — day of —, in the year of our Lord 1842.

J. P. (L. S.)

13. *Constable's Return thereto, where an insufficient Distress.*

Essex, } I, G. W., constable of — in the county aforesaid, do hereby certify to
to wit. } J. P., esq., one of her Majesty's justices of the peace for the said county,
that by virtue of this warrant I have made diligent search for the goods and chattels of E. F. within named, and that I can find no sufficient goods or chattels of the said E. F. whereon to levy the sum within mentioned. Witness my hand, the — day of —, &c.

14. *Commitment for want of Distress, under the 5 Geo. 4, c. 18, s. 2 (u).*

Essex, } To the constable of — in the said county, and to the keeper of the
to wit. } common gaol at — in the said county.

Whereas, &c. [here state the offence, and the conviction, as in the Warrant of Distress, No. 12]: And whereas, afterwards, on the — day of —, in the year aforesaid, I the said J. P. did issue my warrant to the constable of — in the said county, commanding him to levy the said sum of 10*l.* by distress and sale of the goods and chattels of the said E. F.: And it appears to me, as well by the return of the said constable to the said warrant of distress, as otherwise, that the said constable hath made diligent search for the goods and chattels of the said E. F., but that no sufficient distress can be found whereon to levy the same: These are therefore to command you the said constable to take the said E. F., and him safely convey to the common gaol at — in the said county, and there to deliver him to the keeper thereof, together with this precept; and I do hereby command you, the said keeper of the said common gaol, to receive the said E. F. into your custody, and there to imprison him for the space of —, [not exceeding three calendar months,] unless the said sum of 10*l.*, together with the sum of — for the costs of the proceedings, shall be sooner paid. Given under my hand and seal, at — in the county aforesaid, this — day of —, in the year of our Lord 1842.

J. P. (L. S.)

6. *Misbehaviour of the Master.*—In case of misbehaviour or ill-treatment, the parties may proceed either upon the statute of 5 Eliz. c. 4, or 20 Geo. 2, c. 19.

By 5 Eliz. c. 4, s. 35, if any master shall misuse or evil intreat his apprentice, or the apprentice shall have any just cause to complain, or the apprentice not do his duty to his master, then either party may repair to *one* justice of the place where the master dwelleth, who may take such order as the equity of the case may require. But if, for want of good conformity in the master, the justice cannot compound and agree the matter, then he shall take bond of the master to appear at the next sessions; when, upon hearing of the matter before *four* justices, if it be thought meet unto them to discharge the apprentice of his apprenticeship, they may, by writing under their hands and seals, order such discharge, declaring the cause thereof. But if default shall be found to be in the apprentice, then the justices shall cause due correction and punishment to be ministered unto him.

Under this statute *one* justice may, by the *consent of the master*, discharge the apprentice from his indentures; but it must be by order under hand and seal (*x*). The justice, however, is a mere arbitrator, and if the master be dissatisfied, he may have the matter transferred to the sessions; but the like option is not given to the apprentice.

By 20 Geo. 2, c. 19, *two* justices, upon complaint by any *parish* apprentice, or any *other* apprentice with whom no larger sum than 5*l.* has been paid, (extended to 25*l.* by 4 Geo. 4, c. 24, s. 1,) of any misusage or ill-treatment, may summon the master to appear before them, and examine into the matter of the complaint; and, upon proof thereof made to their satisfaction, (whether the master be present or not, if service of the summons be proved,) may discharge the apprentice by warrant under their hands and seals; for which no fee shall be paid.

Appeal by sect. 5, but no *certiorari*, by sect. 6.

By 32 Geo. 3, c. 57, s. 11, where any parish apprentice shall be so discharged, the justices may order the master to deliver up to the apprentice his clothes and wearing apparel, and also to pay to the churchwardens or overseers of the place to which the apprentice belongs, not exceeding 10*l.*, to be applied under the order of the justices for again binding out the apprentice, or otherwise for his benefit; and also to pay not exceeding 5*l.*, in case of refusal to deliver up the clothes. In default of payment, *distress*. And the justices

may compel the churchwardens and overseers to enter into a recognizance for the prosecution of the master for such ill-treatment, and may order the costs of the prosecution to be paid, half out of the poor rates of the parish to which the apprentice shall belong, and the other half out of the county rate. In case the parish officers shall refuse to pay their moiety, *distress*.

By sect. 12, the master may *appeal* from the order of the indictment to the next general quarter sessions; and no distress shall be taken until after the sessions, in case the party, within seven days after notice of the order being made, shall give notice to the churchwardens and overseers of the intended appeal. In default of appearance to support the appeal, then 40s. shall be added to the expenses of the distress.

By 4 Geo. 4, c. 29, s. 2, in case the justices shall direct any apprentice to be *discharged*, under the provisions of the two last-mentioned statutes, they may take into consideration the circumstances under which he shall be discharged, and make an order upon the master to refund all or any part of the premium. In default of payment, *two* justices in petty sessions may grant a warrant of *distress*. In default of distress, commitment to the house of correction for not more than two months, unless the sum, with all costs, be sooner paid.

By 33 Geo. 3, c. 55, s. 1, *two* justices, at any special or petty sessions, upon complaint on oath by or on behalf of any *parish* apprentice, or *other* apprentice with whom not more than 10*l.* has been paid, (extended to 25*l.* by 4 Geo. 4, c. 29, s. 1,) of any ill usage by his master, (such master having been duly summoned,) may impose, upon conviction, a *fine* not exceeding 40s. upon the master, as a punishment for such ill usage; in default of payment, *distress*. *Application of the penalty*, to the use of the poor, or of the apprentice. *Appeal* to the next general or quarter sessions, upon giving ten days' notice. For want of distress, commitment to the house of correction not exceeding ten days.

By 4 Geo. 4, c. 34, s. 2, all *complaints, differences, and disputes* between masters and their apprentices, within the meaning of the 20 Geo. 2, c. 19, and 4 Geo. 4, c. 29, concerning any *wages*, may be heard and determined by *one* justice, who may summon the master, inquire on oath, and make an order for payment of so much as shall be justly due, provided the sum in question does not exceed 10*l.* In default of payment, *distress*.

By sect. 4, where the master resides at a distance from the place where his business is carried on, or is occasionally absent for a long

period of time, either beyond the seas, or at a considerable distance from his place of business, and during such absence entrusts his business to the management of a *steward, agent, bailiff, foreman, or manager*, any justice of the place where the apprentice is employed may, upon his complaint of non-payment of his wages, summon such *steward, &c.*, and hear and determine the complaint, and make an order for the payment by the *steward, &c.* of such wages as shall be due, not exceeding 10*l.* In default of payment for twenty-one days, the justice may issue a warrant of distress against the goods of the master.

By sect. 5, the justice may order the amount of the wages to be paid within a given period. In default of payment, *distress*, in manner directed by 20 Geo. 2, c. 19.

By sect. 6, the act is not to affect the city of *London*.

7. *Misbehaviour of the Apprentice.*]—By 20 Geo. 2, c. 19, s. 4, upon complaint made by the master upon oath against his apprentice, (*i. e.* either a *parish* apprentice, or one with whom not more than 25*l.* was paid, 4 Geo. 4, c. 29, s. 1,) in regard to *any ill behaviour* in his service, two justices may hear, examine, and determine the same, and punish the offender by commitment to the house of correction, to be kept to hard labour, not exceeding one calendar month, or otherwise by discharging the apprentice from his master's service.

By 32 Geo. 3, c. 57, s. 13, where any parish apprentice shall be so discharged on account of *any ill behaviour*, two justices may punish him by commitment to the house of correction, to be kept to hard labour, not exceeding three calendar months.

By 5 Eliz. c. 4, s. 47, if any apprentice *flee into any other shire*, the justices there may order him to be apprehended and imprisoned, till he find sufficient surety well and honestly to serve his master.

By 6 Geo. 3, c. 25, s. 1, if any apprentice shall *absent himself* from his master's service before the term of his apprenticeship shall be expired, he shall at any time, wherever he shall be found, so it be within seven years after the expiration of his term, be compelled to serve his master for so long a time as he shall have so absented himself, unless he make satisfaction to his master for the loss sustained by his absence. In case of refusal, upon complaint on oath by the master to any justice of the county or place where he shall reside, the justice may issue a warrant for apprehending the apprentice, and determine what satisfaction shall be made to the master. In default of giving security to make such satisfaction, the justice may commit

the apprentice to the house of correction not exceeding three months.

By sect. 5, *appeal* to the next sessions, giving six days' notice, and entering into a recognizance, within three days after the notice, to try the appeal, and abide the order of the court.

By sect. 6, the act is not to extend to the *Stannaries* of *Devon* or *Cornwall*, or the city of *London*, nor to any apprentice with whom 10*l.* shall have been paid.

The remedy given by this last statute is cumulative, and does not repeal the penal provision of the 20 Geo. 2, c. 19, s. 4 (*y*).

The 4 Geo. 4, c. 34, enables not only the master, but also his *steward, manager, or agent*, to make complaint upon oath against any apprentice, to any justice of the county or place where the apprentice shall be employed, of any ill behaviour of such apprentice; or if the apprentice shall have absconded, any justice of the place where he shall be found, or shall have been employed, on complaint on oath by such master, steward, manager, or agent, may issue his warrant for apprehending the apprentice, and may hear and determine the complaint, and punish the offender, by abating the whole or any part of his wages, or otherwise by commitment to the house of correction, to hard labour, not exceeding three months.

1. *Summons of the Master for misusing his Apprentice, under 5 Eliz. c. 4, s. 35 (z).*

County of } To the constable of —.

Whereas complaint and information have been made unto me, —, one of her Majesty's justices of the peace in and for the county of —, by A. B., apprentice to C. D., of —, in the said county, tailor, that the said C. D. hath misused and evil intreated him, the said A. B., by cruel punishment, and by beating the said A. B. without just cause, and by not allowing unto him sufficient meat, drink, apparel, &c. [*or as the case shall be*]: These are therefore, in her Majesty's name, to command you to summon the said C. D. to appear before me, at the house of —, in the said county, on the — day of —, at the hour of —, in the afternoon of the same day, to answer unto the said complaint, and to be further dealt with according to law. Herein fail you not. Given under my hand and seal, the — day of —, 1841.

2. *Summons of the Apprentice, on Complaint of the Master, under the same Statute.*

County of } To the constable of —.

Whereas complaint and information have been made unto me, —, one of her Majesty's justices of the peace for the county of —, by A. M., of —, in the said county, husbandman, that A. P., now being an apprentice to him, the said A. M., is negligent, stubborn, disorderly [*or as the case shall be*], and duth not his duty to him,

(y) *Gray v. Cookson*, 16 East, 13.

(z) See *ante*, p. 53.

the said A. M., his master : These are, therefore, to command you to summon, &c. [as before.]

3. *Discharge of an Apprentice by two Justices, with whom not more than 25l. has been paid, on the Master misusing him, under the 20 Geo. 2, c. 19, s. 3, and 4 Geo. 4, c. 29, s. 1 (a).*

County of } Whereas, complaint upon oath hath been made before us, —, two of
—, } her Majesty's justices of the peace in and for the said county of —, by
A. P., apprentice to A. M., of —, in the said county, tailor, that he, the said A. M.,
hath misused and evil treated him, the said apprentice, and particularly [as the case
shall be] : And whereas the said A. M. hath appeared before us, in pursuance of our
summons for that purpose, but hath not cleared himself of and from the said accu-
sation and complaint, but, on the contrary, the said A. P. hath made full proof of the
truth thereof, and the said A. M. now stands duly convicted of the same before us,
upon oath : We, therefore, by these presents, do discharge him, the said A. P., of and
from his said apprenticeship to the said A. M., anything contained in the indenture of
apprenticeship made betwixt them, or otherwise howsoever, to the contrary notwith-
standing. Given under our hands and seals, the — day of —, 1842.

[If the master do not appear on the summons, then, after the first recital, say] And
whereas, it hath been duly proved before us, as well upon the oath of A. C., constable
of —, aforesaid, as otherwise, that he the said A. E. did duly summon the said
A. M. to appear before us, at a reasonable time, in the said summons mentioned ; but,
notwithstanding the same, he, the said A. M., hath not appeared before us, according
to such summons : We, therefore, having duly examined into the matter of the said
complaint, and the truth thereof having been fully proved before us, upon oath, do
discharge, &c. [as before.]

4. *Discharge of a Parish Apprentice, under the 32 Geo. 3, c. 57, s. 11, with an Order for the payment of a sum by the Master (b).*

County of } Whereas, complaint upon oath has been made before us, J. P. and
—, } H. P., esquires, two of her Majesty's justices of the peace in and for the said
county of —, by A. P., a parish apprentice to A. M., of W., in the said county of
—, that he the said A. M. has misused and evil treated him, the said apprentice,
and particularly [here state the acts of ill treatment]. And whereas, the said A. M.
has appeared before us, in pursuance of our summons for that purpose, but has not
cleared himself of and from the said accusation and complaint, but, on the contrary,
the said A. P. has made full proof thereof before us, upon oath : We, therefore, by
these presents, do discharge him, the said A. P. of and from his said apprenticeship to
the said A. M., anything in the indenture of apprenticeship, whereby the said A. P. is
bound to the said A. M., to the contrary notwithstanding. And we do hereby order,
that he the said A. M. shall, upon due notice hereof, forthwith deliver up to the said
apprentice his clothes and wearing apparel, and also pay immediately to the church-
wardens or overseers of the poor of the parish of —, in the said county, to which
parish the said apprentice belongs, some or one of them, the sum of £ —, to be
applied by them, some or one of them, under our further order, for the benefit of the
said apprentice, as to us shall seem meet. Given under our hands and seals, the —
day of —, 1842.

(a) See ante, p. 53.

(b) See ante, p. 53.

5. *Complaint thereon, that the Money has not been paid.*

County of } The information and complaint of A. O., one of the overseers of the
 ——— } poor of the parish of W., in the county of ———, made on oath before us,
 J. P. and K. P., esquires, two of her Majesty's justices of the peace for the said
 county, this ——— day of ———, 1842, who on his oath aforesaid says, that by an order
 under the hands and seals of us, the said J. P. and K. P., now produced before us,
 the said justices, A. P., the parish apprentice of A. M., of the said parish of ———, was
 discharged of and from his apprenticeship to the said A. M., for ill treatment, and
 that the said A. M. was ordered, upon due notice of the said order, forthwith to deliver
 up to the said apprentice his clothes and wearing apparel, and also to pay immediately
 to the churchwardens or overseers of the poor of the said parish of ———, to which
 parish the said A. P. belongs, some or one of them, the sum of £——, to be applied
 by them, some or one of them, under the further order of us, the said justices, for the
 benefit of the said apprentice; and that the said A. M. has had due notice of the said
 order, but that the said A. M. has, nevertheless, not paid the said sum of £——, so
 directed to be paid by him, nor any part thereof, but refuses so to do: Whereupon
 he, the said A. P., prays that justice may be done in the premises.

Taken before us,

6. *Warrant of Distress thereon.*

County of } To the constable of ———, in the said county.
 ——— }

Whereas, by an order under the hands and seals of us, J. P. and K. P., esquires,
 two of her Majesty's justices of the peace in and for the said county, dated the ———
 day of ———, 1842, A. P., the parish apprentice of A. M., of ———, in the said county,
 tailor, was discharged of and from his apprenticeship to the said A. M. for ill treat-
 ment: And whereas, in and by the said order the said A. M. was ordered, upon due
 notice of the said order, forthwith to deliver up to the said discharged parish apprentice
 his clothes and wearing apparel, and also to pay immediately to the churchwardens or
 overseers of the poor of the said parish of ———, to which parish the said A. P. belongs,
 some or one of them, the sum of £——, to be applied by them, some or one of them,
 under the further order of us, the said justices, for the benefit of the said apprentice;
 and whereas it appears unto us, upon the oath of A. O., one of the overseers of the
 poor of the said parish of ———, that the said A. M. has had due notice of our said
 order, but has not paid the said sum of £——, so directed to be paid by him, the said
 A. M., nor any part thereof, but, on the contrary, has refused, and still refuses, so to
 do*, and thereupon the said A. O. prays that justice may be done in the premises:
 These are, therefore, to command you [that, at the expiration of seven days from the
 notice of our said order, you do make distress of the goods and chattels of the said
 A. M., unless before the expiration of the said seven days he, the said A. M., give
 notice to the churchwardens and overseers of the said parish of ———, or to one of
 them, of his intent to appeal to the next general quarter sessions after the making of
 such order, against the said order of discharge, or the said order of payment; in which
 case you are to postpone the taking of the said distress until after the next said sessions
 shall have been holden; and if at the said sessions the said A. M. shall not appear in
 support of his said appeal, then you are hereby further commanded to add the sum of
 forty shillings to the said expenses of distress; and immediately upon such non-appear-
 ance, or upon the confirmation of the said order at the said sessions, you are to proceed

forthwith to make the said distress, and] that you do levy the same by distress of the goods and chattels of him the said A. M., together with the reasonable expenses of such distress; and if, within the space of four days next after the distress by you made, the sum of £—, together with the reasonable expenses of taking and keeping of the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and out of the money arising by the sale thereof that you pay the said sum of £— unto the churchwardens or overseers of the poor of the said parish of —, to be by them applied as aforesaid, returning the overplus, upon demand, unto the said —, the reasonable charge of taking, keeping, and selling the said distress being thereout first deducted. Given under our hands and seals, the — day of —, 1842.

The above form is to be adopted only where the warrant for distress is issued before the expiration of the seven days. It would be better, however, to wait till seven days after the notice shall have expired, in which case, if no notice of appeal shall have been given, the parts between the brackets must be omitted. If the appeal be made, and the order confirmed, or if the appeal be made, and the master do not appear, then the warrant of distress must be made after the sessions, mutatis mutandis, and may be in this form, from the above asterisk:—[“ And that within seven days after such notice of the said order, the said A. M. did give notice to the churchwardens and overseers of the said parish of —, of his intent to appeal against the said order at the then next sessions of the peace to be holden for the said county; and that at the said sessions the said order was then and there confirmed [or, “but that at the said sessions the said A. M. did not appear in support of the said appeal”]: These are, therefore, to command you &c. &c. [as before, only that after the words “thereout first deducted” should be added, in case of non-appearance, “and that you add forty shillings to the said reasonable expenses, on account of the said non-appearance of the said A. M., as aforesaid.”]

7. *Complaint against a Master for not delivering up to a discharged Parish Apprentice his Clothes, under the 32 Geo. 3, c. 57, s. 11 (c).*

County of } The information and complaint of A. P., the late parish apprentice of
— A. M., of —, in the said county, tailor, made on oath before us, J. P. and K. P., two of her Majesty's justices of the peace in and for the said county, this — day of —, 1841, who on his oath aforesaid says, that by an order under the hands and seals of us, the said justices, dated the — day of —, 1842, and now here produced before us, he the said A. P. was discharged from his said apprenticeship to the said A. M., for ill treatment, and that in and by the said order the said A. M. (among other things) was ordered, upon due notice of the said order, forthwith to deliver up to the said A. P. his clothes and wearing apparel; and that the said A. M. had due notice of the said order on the — day of —, 1842, and that this complainant did then demand his clothes and wearing apparel of and from the said A. M., according to the said order, but that he the said A. M. then refused, and still refuses, to deliver up the same, wherefore the said A. P. prays us, the said justices, that justice may be done in the premises.

Taken before us,

8. *Order thereon.*

County of } Whereas, by an order under the hands and seals of us, J. P. and K. P.,
 —. } esquires, two of her Majesty's justices of the peace in and for the said
 county, dated the — day of —, 1841, A. P., the parish apprentice of A. M., of
 —, in the said county, tailor, was discharged from his apprenticeship to the said
 A. M., for ill treatment; and whereas in and by the said order the said A. M. (among
 other things) was ordered, upon due notice of the said order, forthwith to deliver up to
 the said A. P. his clothes and wearing apparel: And whereas information and complaint
 have been made unto us, the said justices, upon the oath of the said A. P., that
 the said A. M. had due notice of our said order on the — day of —, 1842, and
 that the said A. P. did then demand his clothes and wearing apparel, but that the said
 A. M. then refused, and still refuses, to deliver up the same, according to the directions
 of the said order; and thereupon the said A. P. prayed us, the said justices, that
 justice may be done in the premises: And whereas the said A. M. has been duly summoned
 to appear before us, the said justices, to answer unto the said complaint, but has
 not shewn unto us any just cause why he refuses to comply with the directions of the
 said order, and to deliver up the said clothes and wearing apparel, as thereby com-
 manded: We do hereby order the said A. M., upon due notice of this our order, to
 pay to the churchwardens or overseers of the poor of the said parish of — the sum
 of —, [*not exceeding 5*l.**] to be by them applied as the law directs. Given under
 our hands and seals, the — day of —, 1842.

9. *Warrant of Distress thereon.*

County of }
 —. } To the constable of —.

Whereas, by an order under the hands and seals of us, J. P. and K. P., esquires,
 two of her Majesty's justices of the peace in and for the said county, dated the —
 day of —, 1841, A. P., the parish apprentice of A. M., of —, in the said county,
 was discharged of and from his apprenticeship to the said A. M., for ill treatment;
 and whereas in and by the said order the said A. M. (among other things) was ordered,
 upon due notice of the said order, forthwith to deliver up to the said A. P. his clothes
 and wearing apparel: And whereas information and complaint have been made unto
 us, the said justices, upon the oath of the said A. P., that the said A. M. had due
 notice of our said order on the — day of —, 1842, but refused to deliver up to
 the said A. P. such clothes and wearing apparel as aforesaid, according to the direc-
 tions of the said order: And whereas the said A. P. was duly summoned to appear
 before us on the — day of — last, to answer unto the said complaint, but the
 said A. M. did not show unto us any just cause why he refused to comply with the
 directions of the said order: We, the said justices, did thereupon then and there, by
 an order under our hands and seals, direct that he the said A. M. should, upon due
 notice of the said order last mentioned, pay to the churchwardens and overseers of the
 poor of the said parish of — the sum of £—, to be by them applied as the law
 directs: And whereas it appears unto us, the said justices, upon the oath of one of
 the overseers of the poor of the parish of — aforesaid, that the said A. M. has had
 due notice of our said order last mentioned, but has not paid the said last-mentioned
 sum of £—, or any part thereof: These are, therefore, to command you to make
 distress of the goods and chattels of him the said A. M.; and if, within the space of

four days next after such distress by you made, the said last-mentioned sum of £—, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the goods and chattels so by you distrained, and out of the money arising by the sale thereof, that you pay the said last-mentioned sum of £— unto the churchwardens or overseers of the poor of the parish of —, to be by them applied as aforesaid, returning the overplus, upon demand, unto him the said A. M., the reasonable charges of taking, keeping, and selling the said distress being thereout first deducted. Given under our hands and seals, the — day of —, 1841.

10. *Information against a Master for Removing with his Apprentice into another County, or for above forty Miles, without notice to the Parish Officers, under the 56 Geo. 3, c. 193, s. 8 (d).*

County of } The information and complaint of O. P., overseer of the poor of the
Essex. } parish of —, in the said county, made upon oath before me, one of her Majesty's justices of the peace in and for the said county, the — day of —, in the year of our Lord 1842, who says, that A. P., a poor child of the parish of — aforesaid, in the county aforesaid, was put apprentice by the churchwardens and overseers of the poor of the said parish of —, by and with the consent of two of her Majesty's justices of the peace in and for the said county, unto A. M., then of the said parish of —, yeoman; and that the said A. M. afterwards, to wit, on the (e) — day of — last, removed his residence [or "establishment of business," *as the case may be,*] out of the said county of Essex, [or "forty miles from the parish wherein the same was when such child was put apprentice,"] by going to and residing at —, in the county of Kent, [or "at — in the county aforesaid, which is more than forty miles from the parish wherein the same was, when the said A. P. was bound apprentice,"] without giving a written notice thereof to the churchwardens or overseers of the poor of the parish where the said apprentice then resided, or to the churchwardens and overseers of the poor of the place where such apprentice was then legally settled, fourteen days previous to such removal, and that the said A. M., upon such removal, took his said apprentice to — aforesaid, without any order previously obtained for that purpose from two of her Majesty's justices of the peace for the county within which the said apprentice was then serving, contrary to the form of the statute in such case made and provided, whereby the said A. M. hath forfeited the sum of 10*l.*, to be paid to the churchwardens and overseers of the said parish, wherein at the time of such removal and taking the said apprentice was legally settled. Whereupon the said O. P. prays the judgment of two of her Majesty's justices of the peace for the said county of —, where the said offence was committed, and that the said A. M. may be summoned to answer the premises accordingly.

11. *Summons thereon.*

County of }
— } To —, the constable of —.

Whereas information and complaint upon oath have been made before me, —, one of her Majesty's justices of the peace in and for the said county, by O. P., over-

(d) See *ante*, p. 42.

(e) The information must be exhibited

within three calendar months after the commission of the offence.

seer of the poor of the parish of —, in the said county, that A. P., a poor child of the parish of — aforesaid, in the county aforesaid, was put apprentice, &c. [*here set out the whole of the information as ante, p. 61*]. These are therefore, in her Majesty's name, to command you to summon the said A. M. to appear before me, and such other of her Majesty's justices of the peace for the said county as shall be then present, at —, in —, in the said county, on — the — day of —, instant, at the hour of — in the forenoon, to answer unto the said information and complaint, and to be further dealt with according to law. Given under my hand and seal, this — day of —, 1842.

12. Conviction thereon (f).

County of } Be it remembered, that on the — day of —, in the year of our
—, } Lord 1842, is convicted before us, J. P. and W. R., esquires, two of her Majesty's justices of the peace for the county of —, upon the information of O. P., for that [*here state the offence as in the information, ante, p. 61*] contrary to the form of the statute passed in the 56th year of the reign of his Majesty King George the Third, intituled, "An Act to regulate the Binding of Parish Apprentices;" and for which offence we do adjudge that the said A. M. shall forfeit and pay the sum of 10*l.*, to be paid to the churchwardens and overseers of the parish of —, in the said county of —, wherein at the time of such removal of the said A. M. the said apprentice was legally settled. And in case such penalty shall not be paid by the said A. M., or levied by distress upon his goods and chattels, within — days from the date of this conviction, we adjudge that the said A. M. shall be imprisoned in — for the space of — [*not less than one, nor more than six months*]. And for your so doing this shall be your sufficient warrant. Given under our hands and seals, at —, in the county aforesaid, this — day of —, 1842.

13. Warrant of Distress thereon.

County of } To the constable of the parish of —.
—, }

Whereas, A. M., late of the parish of W., in the said county, yeoman, is this day duly convicted before us, J. P. and K. P., esquires, two of her Majesty's justices of the peace in and for the said county, upon the oath of O. P., overseer of the poor of the said parish of —, for that A. P., a poor child of the parish of — aforesaid, in the county aforesaid, was put apprentice, &c. [*following the whole of the information, ante, p. 61*]. These are therefore to command you, that, in case no notice of appeal to any court of general or quarter sessions, to be holden for the said county within three calendar months from the date of the said information and complaint, be given by the said A. M. to us the said justices, and also to the persons interested in such appeal, within twenty-one days from the date hereof; or in case the said A. M., upon giving such notice, neglects to enter into a recognizance with two sufficient sureties before some justice of the peace for the county or district within which the said conviction has taken place, to appear at such general or quarter sessions, to abide the judgment of the court upon such appeal, and to pay the costs which may be awarded thereon, you, the said constable, do levy the said sum of 10*l.* by distress and sale of the goods and chattels of the said A. M.; and if, within the space of four days next after such distress

(f) This form of conviction is given by the 56 Geo. 3, c. 39, s. 15.

by you taken, the said sum of 10*l.*, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained as aforesaid, and out of the money arising by such sale, that you do pay the sum of 10*l.* to the churchwardens and overseers of the poor of the said parish of —, wherein at the time of such removal and taking the said apprenticeship was legally settled, to be by them applied to the use of the poor of the said parish, returning the overplus (if any) on demand, unto him the said A. M. And if sufficient distress cannot be found of the goods and chattels of the said A. M., whereon to levy the said sum of 10*l.*, that then you do certify the same to us, together with the return of this precept. Given under our hands and seals, at —, in the said county, the — day of —, in the year of our Lord 1842.

14. *Commitment, when no Distress can be found.*

County of } To the constable of —, in the said county, and to the keeper of the
— house of correction [or “common gaol”] at —, in the said county. *#

Whereas A. M., late of the parish of —, in the said county, yeoman, was, on the — day of — last, duly convicted before us, J. P. and K. P., esquires, two of her Majesty’s justices of the peace in and for the said county, upon the oath of O. P., overseer of the poor of the said parish of —, for that A. P., a poor child of the parish of — aforesaid, in the county aforesaid, was put apprentice, &c. [to the end of the information, ante, p. 61]. And whereas, on the — day of — instant, we the said justices did issue our warrant to the constable of —, to levy the said sum of 10*l.*, by distress and sale of the goods and chattels of him the said A. M., and to pay the same according to the direction of the statute. And whereas it duly appears unto us, the said justices, as well upon the oath of the said constable of —, as otherwise, that he the said constable has used his best endeavours to levy the said sum of 10*l.* on the goods and chattels of the said A. M., but that no sufficient distress can be found whereon to levy the same: These are therefore to require you, the constable of — aforesaid, to convey the said A. M. to the said house of correction [or “common gaol”] of the said county of —, and there deliver him to the said keeper thereof, together with this precept. And you, the said keeper, are hereby commanded to receive into your custody, in the said house of correction [or “common gaol”], him the said A. M., and there to safely keep him for the space of — [not less than one, nor more than six months]. And for your so doing this shall be your sufficient warrant. Given under our hands and seals, at —, this — day of —.

15. *Information against a Master for Removing his Residence, and abandoning his Apprentice.*

County of } The information and complaint of, &c. [as ante, p. 61, to the end of the
Essex. } statement of the apprenticeship.] And that the said A. M., afterwards, to wit, on the — day of — last, removed from the said parish of —, and then and there wilfully abandoned and left his said apprentice, without giving a written notice of such removal to the churchwardens and overseers of the poor of the parish where the said apprentice then resided, or to the churchwardens or overseers of the poor of the place where such apprentice was then legally settled, fourteen days previous to such removal, contrary to the form of the statute, &c. [as before, p. 61.]

16. *Recognizance of Overseers to prosecute a Master for Ill-treatment of a Parish Apprentice, under the 32 Geo. 3, c. 57, s. 11 (g).*

Essex, } Be it remembered, that on the — day of —, in the fifth year of the
to wit. } reign of our Sovereign Lady Victoria, of the united kingdom of Great Bri-
tain and Ireland Queen, defender of the faith, A. B. and C. D., overseers of the poor
of the parish of —, in the said county, personally came before us, J. P. and M. W.,
esquires, two of her Majesty's justices of the peace in and for the said county, and
acknowledged themselves to owe to our said lady the Queen the sum of —l. each,
to be made and levied of their goods and chattels, lands and tenements, respectively,
to the use of our said lady the Queen, her heirs and successors, if default shall be made
in the condition following:—

Whereas A. P., an apprentice by a parish indenture to E. F., of the parish of —, in the said county, baker, has charged on oath the said E. F., his master, before us, the said justices, with misusage and ill-treatment, in having, &c. [*here state shortly the particulars of the ill-treatment*] for which offence and misconduct we have discharged the said A. P. from his apprenticeship to the said E. F. Now the condition of this recognizance is such, that if the above-bounden A. B. and C. D. do and shall produce the said A. P., or other material evidence, and prosecute with effect the said E. F. for the said offence and misconduct, by indictment at the next general quarter sessions of the peace for the said county, according to the directions of an Act passed in the thirty-second year of the reign of his late Majesty King George the Third, intituled, "An Act for the further Regulation of Parish Apprentices," then this recognizance to be void; but otherwise to be in full force and virtue.

Acknowledged before us, { J. P.
 { M. W.

17. *Recognizance, on giving Notice of Appeal against the above Conviction.*

County of } Be it remembered, that on the — day of —, in the — year of
—, } the reign of our Sovereign Lady Victoria, of the united kingdom of Great
Britain and Ireland Queen, defender of the faith, E. F., of &c., baker, A. B. of &c.,
farmer, and C. D., of &c., butcher, personally came before me, J. P., esq., one of her
Majesty's justices of the peace in and for the said county, and acknowledged them-
selves to owe to our said Lady the Queen, that is to say, the said E. F., the sum of 20l.,
and the said A. B. and C. D., the sum of — each, of good and lawful money of Great
Britain, to be made and levied of their goods and chattels, lands and tenements,
respectively, to the use of our said sovereign Lady the Queen, her heirs and successors,
if the said E. F. shall make default in the condition following:—

Whereas the above-bounden E. F. was, on the — day of —, instant, duly convicted before J. P. and K. P., esquires, two of her Majesty's justices of the peace in and for the said county, upon the oath of O. P., overseer of the poor of the parish of —, in the said county, for that A. P., a poor child of the parish of —, in the county aforesaid, was put apprentice, &c. [*set out the offence as stated in the information, ante, p. 61*]. Now the condition of this recognizance is such, that if the above-bound E. F. shall well and truly appear at the next quarter sessions of the peace, to be holden in and for the said county, and then and there enter and prosecute an appeal

against the said conviction, and abide the judgment of the court upon such appeal, and pay the costs which may be awarded thereon, and not depart without leave of the court, then this recognizance to be void, but otherwise to remain in full force and virtue. Acknowledged before me,

J. P.

18. *Complaint to one Justice by a Master or Agent, &c. against an Apprentice, for Ill-behaviour, under the 20 Geo. 2, c. 19, ss. 3, 4, and 4 Geo. 4, c. 29, s. 1 (h).*

County of } The complaint and information of A. M., of —, in the said county,
 —. } husbandman, [or “ of A. C. of —, the steward, [‘ manager’ or ‘ agent,’
 as the case may be] of A. M. of —, in the said county,”] the master of A. P., an
 apprentice to the said A. M., taken on oath before me, —, esq., one of her Majesty’s
 justices of the peace in and for the said county, the — day of —. The said A. M.
 says, that A. P., apprentice by indenture to the said A. M., and upon whose binding
 out no larger sum than 25*l.* of lawful British money, to wit, the sum of 10*l.*, was paid
 [or “ contracted to be paid,”], hath in the service of his apprenticeship been guilty of
 many misdemeanors, miscarriages, and of much ill-behaviour towards him the said
 A. M., and particularly [as the case shall be]. Taken before me,

J. P.

19. *Warrant thereon.*

County of } To —, the constable of .
 —. }

Whereas, oath has been made before me —, one of her Majesty’s justices of the
 peace in and for the said county, by A. M., of —, in the said county, husbandman,
 [here set out the information, to the end of the last precedent]. These are therefore to
 require you forthwith to apprehend the said A. P., and bring him before me, and
 such other of her Majesty’s justices of the peace in and for the said county, as shall be
 present at —, in the said county, on the — day of —, instant, at the hour of
 — in the forenoon, to answer unto the said complaint, and to be further dealt with
 according to law. And you are to give notice to the said A. M., that he appear before
 us at the same time to make good the said complaint. Given under my hand and
 seal, &c.

20. *Commitment thereon, by Two Justices, to the House of Correction.*

County of } To —, the constable of —, in the said county, and to the keeper
 —. } of the house of correction at —, in the said county.

Whereas, complaint hath been made before me, J. P., esq., one of her Majesty’s jus-
 tices of the peace in and for the said county, upon the oath of A. M., of —, in the said
 county, husbandman, [insert the information to the end, as above]. And whereas,
 upon examination of the said complaint, and upon hearing the allegations of both par-
 ties, they having come before us, the said J. P., and C. D., esquire, another of her
 Majesty’s justices of the peace in and for the said county, for that purpose, and upon
 due consideration had thereof, it manifestly appears to us, and we do therefore adjudge,
 that he the said A. P. is guilty of the premises so charged against him as aforesaid :

(h) See *ante*, p. 55.

We do therefore hereby command you, the said constable, to take and convey the said A. P. to the said house of correction, and to deliver him there to the keeper thereof, together with this warrant. And we do hereby command you, the said keeper of the said house of correction, to receive the said A. P. into your custody in the said house of correction, there to remain, and be corrected and held to hard labour, for the space of [*not exceeding one calendar month*]. Given under our hands and seals, &c.

8. *Registry of Parish Apprentices.*—By 42 Geo. 3, c. 46, s. 1, the overseers of every parish and township are required to keep a book, and to enter therein the name of every apprentice bound out by them, according to the form given in the schedule to the act; and every such entry shall be laid before the two justices who assent to the apprenticeship, at the same time with the indenture, and, if approved, shall be signed by such justices.

By sect. 2, if the overseers neglect to keep such book, or make such entry, or shall destroy the book, or wilfully and knowingly obliterate, deface, or alter any entry or make a false entry, or shall not produce the book before the justices for their signatures, or not deliver the book to their successors in office within fourteen days after their appointment, or if such successors shall refuse to receive the same;—*Penalty*, not exceeding 5*l.*, on conviction before *two justices*, on oath of *one witness*, to be recovered by *distress*, and applied to the use of the poor. In default of distress, or in case the penalty shall not be paid forthwith, *commitment* to the common gaol or house of correction, for not more than one calendar month.

Sect. 4 gives the following form of conviction :

Be it remembered, that on the — day of —, in the year of our Lord —, A. B. is convicted before us, two of her Majesty's justices of the peace for the — [*specifying the offence, and the time and place when and where committed, as the case may be*], contrary to an Act made in the forty-second year of the reign of King George the Third, intituled, [*here set forth the title of the Act.*] Given under our hands and seals, the day and year above mentioned.

By sect. 3, any person may inspect the book, and take a copy of any entry therein, on payment of 6*d.*; and the book is declared to be sufficient evidence of the indentures, in case they are lost.

By sect. 5, when the apprentice is assigned over to another master, the overseers are required to make an entry in the manner before directed, under the like penalty.

By sect. 6, *persons having like power as overseers* for binding out parish apprentices are required to comply with the directions of the act, under the like penalties.

By sect. 7, an *appeal* is given to the first sessions within four calendar months after cause of appeal shall have arisen, on giving ten days notice to the party appealed against.

Form of the Register of Parish Apprentices under 42 Geo. 3, c. 46.

Number.	Date of Indenture.	Name of the Apprentice.	Sex.	Age.	Names of Parents.	Their Residences.	Names of Persons to whom bound or assigned.	His or Her Trade.	His or her Residence.	Term of the Apprenticeship or Assignment.	Apprentice or Assignment Fee.	Overseers Parties to the Indenture or Assignment.	Magistrates assenting.
													(To be signed by them- selves.)

9. *Where the Apprentice enlists for a Soldier.*—By the Annual Mutiny Act (see 7 Will. 4 & 1 Vict. c. 7, s. 41) no master is entitled to claim an apprentice, who shall enlist as a soldier in her Majesty's, or the East India Company's services, unless, within one calendar month after the apprentice has left his service, he goes before some justice and takes the oath mentioned in the schedule to the act, and produces the justice's certificate of his having taken such oath, and unless the apprentice shall have been bound for seven years, not having been above the age of fourteen when bound, nor unless the apprentice shall, when claimed, be under twenty-one; but the master of an apprentice indentured for the sea service may claim him, notwithstanding he may have been bound for a less term than seven years.

10. *Of Apprentices to the Sea Service.*

When Overseers may bind poor Boys.—By 5 & 6 Will. 4, c. 19, s. 26, the overseers of any parish are empowered to bind by indenture and put out any boy having attained the age of thirteen years, and of sufficient health and strength, who, or whose parent, is chargeable to or maintained by such parish, or who shall beg for alms therein, (with his consent, but not otherwise,) an apprentice to the

* If the child is apprenticed to a master in another county, this return should be signed by two justices of the county

into which the apprentice is bound, as well as by two justices of the county from which he is bound.

sea service to any of his Majesty's subjects, being the master or owner of any ship registered in any port of the united kingdom, for so long time and until such boy shall attain the age of twenty-one years; which binding shall be as effectual as if he had been bound by virtue of any statute respecting the binding of parish apprentices, or as if he were of full age and had bound himself an apprentice, and notwithstanding the residence of the master or owner shall be more than forty miles distant from such parish. Every such binding must be made in the presence of two justices, who must also execute the indenture; and the age of the boy must be inserted in it, the same being truly taken from a copy of the entry of his baptism in the register book of the parish in which he was born, which copy shall be given and attested by the officiating minister of the parish, without fee or reward. If no such entry of baptism can be found, the justices shall inform themselves as fully as they can of the boy's age, and shall insert the same in the indenture, and the age so inserted shall (in relation to the continuance of his service) be taken to be his true age, without any further proof thereof.

When Parish Apprentices may be assigned over to the Sea Service.]—By sect. 27, any master, to whom any poor parish apprentice shall be bound to any service on shore, or the executors or administrators, or (there being none such) the widow of any deceased master, with the concurrence of two justices residing in or near to the place where such poor boy shall have been bound apprentice, may assign and turn him over (with his consent, but not otherwise) apprentice to any master or owner of any ship not having her lawful complement of apprentices, to be employed in the sea service during the period then remaining unexpired of his apprenticeship.

By sect. 28, the indentures may be assigned over on the death of the master, to any other master or owner of a ship not having the proper complement of apprentices.

What to be paid with the Boy, &c.]—By sect. 29, overseers must transmit the indentures in duplicate (if the master or owner of the ship shall be or reside within the limits of the port of *London*,) to the registrar of merchant seamen, and, if at any other port, to the collector or comptroller of the customs there; and must cause the boy to be conveyed to such port or place by the constable, at the expense of the parish, and, upon the execution by the master of the counterpart of the indentures, cause to be paid down to the master the sum of 5*l.*, to be expended in providing the boy with necessary

sea clothing and bedding ; which sum, as well as the expenses to be incurred in the conveyance of the boy, shall be allowed to them in their accounts.

As to the Counterpart of the Indenture.—By sect. 30, the counterparts of all such indentures shall, if the master shall be or reside within the limits of the port of *London*, be executed in the presence of, and attested by, the registrar, or one of his assistants or clerks, and if at any other port, by the collector or comptroller of the customs there, and also in both cases by the constable or other officer who shall convey the apprentice thither ; and such indentures shall bear date respectively on the days on which they are executed ; and the constable, on his return, shall deliver such counterparts to the overseers, to be by them registered and preserved.

Number of Apprentices required to be taken by Masters of Ships.—By sect. 31, the master of every ship belonging to any subject of the united kingdom, and of the burthen of 80 tons, shall have on board thereof, at the time of clearing out from any port of the united kingdom, one apprentice or more, in the following proportions to the number of tons of his ship's admeasurement, according to the certificate of registry ; that is to say, every ship of 80 tons, and under 200 tons, shall have one apprentice at the least ; every ship of 200 tons, and under 400 tons, shall have two apprentices ; of 400 tons, and under 500 tons, three apprentices ; of 500 tons, and under 700 tons, four apprentices ; and 700 tons, five apprentices ; all of whom, at the period of their being bound respectively, shall have been under seventeen years of age, and shall have been duly bound for the term of four years at the least. If any master shall neglect to have on board his ship the number of apprentices as above required, he shall forfeit the sum of 10*l.*, in respect of each apprentice so deficient.

Exemption from certain payments.—By sect. 32, no apprentice so bound or assigned, nor any master or owner, in respect of any such apprentice, shall be liable to the payment of any contribution towards the support of any hospital or institution.

Registering.—By sects. 33, 34, indentures and assignments of all such parish apprentices must be duly registered with the registrar of merchant seamen, as well as all indentures and assignments of persons voluntarily binding themselves apprentices.

Penalty for not registering the Indenture.—By sect. 36, if any master shall neglect to cause the indenture, or the assignment thereof,

to be registered, as required by the act, or shall, after the ship shall have cleared outwards on her voyage, suffer his apprentice to quit his service (not entering into that of his Majesty), except in case of death, desertion, sickness, or other unavoidable cause, to be certified in the log-book of the ship, he shall forfeit 10*l*.

Justices may determine Complaints.—By sect. 37, any two justices residing at or near the port at which any ship, having on board any sea apprentice, shall arrive, may inquire into and examine, hear and determine, all claims of apprentices upon their masters under their indentures, and all complaints of hard or ill usage exercised by their respective masters towards any such their apprentices, or of misbehaviour on the part of any such apprentice, and may make such orders therein as in other cases between masters and apprentices.

Apprentices entering into the Navy.—By sect. 39, no parish or voluntary apprentice to the sea service shall be at liberty to enter into the naval service of his Majesty, during the period of his apprenticeship, without the consent of his master; but if, nevertheless, he shall voluntarily enter on board any of his Majesty's ships of war, and shall be allowed by his master to continue therein, such master, in case he shall give notice to the secretary of the admiralty of his consent, shall, upon the production of his indenture, be entitled at the time of paying off the ship, to receive to his own use any balance of wages, that may be then due and payable to any such apprentice up to the period of the expiration of his indenture.

For the recovery and application of penalties under this act, see *post*, *Seamen*.

Army—See *Soldiers*.

Army and Navy Pensions.

BY 2 & 3 Vict. c. 51, s. 8, if any person shall procure or induce an army or navy pensioner to make, or aid or assist him in making, an assignment of pension, superannuation, or other allowance, to any person other than the guardians of any union or parish, or the churchwardens and overseers; or shall aid or assist in making any assignment, which shall not be given by the pensioner as a security for relief given, or money advanced out of the parish funds, and for re-

imbursing the parish; or shall receive or accept (i) as payment or security for money, or for goods, advanced or agreed to be advanced to, or lent or given to any such pensioner, or shall demand or charge any interest or pecuniary or other compensation for advancing money upon any pension or other allowance so assigned or taken, or pretended to be assigned or taken;—*Misdemeanor, punishable by fine or imprisonment, or both.*

And see further, *Forgery, Soldiers, Seamen.*

—
Arrest—See *Apprehension of Offenders.*

—
Arsenals, firing them—See *Arson.*

—
Arson.

BY 12 Geo. 3, c. 24, s. 1, if any person shall wilfully and maliciously set on fire, or burn, or otherwise destroy, or cause to be set on fire, &c., or aid, procure, abet, or assist, &c., any of his Majesty's ships or vessels of war, whether on float, or building, or repairing in any of the King's dockyards, or in any private yard,—or any of his Majesty's arsenals, magazines, dockyards, rope-yards, victualling offices, or any of the buildings erected therein, or belonging thereto, or any timber or materials there placed for building, repairing or fitting out of ships or vessels,—or any of his Majesty's military, naval, or victualling stores, or other ammunition of war,—or any place or places where the same shall be kept, placed, or deposited; *Felony, without benefit of clergy (h).*

By 7 Will. 4 & 1 Vict. c. 89, s. 2, whosoever shall unlawfully and maliciously set fire to any *dwelling-house*, any person being therein; *Felony, Death.*

By sect. 3, whosoever shall unlawfully and maliciously set fire to any *church or chapel*, or to any *chapel* for the religious worship of

(i) It is difficult to make any meaning of this part of the enactment, unless the words "any such assignment" were here inserted.

(k) This is still, and may well for the safety of the state be declared to be, a capital felony; the statute 7 & 8 Geo. 4, c. 28, which abolished benefit of clergy, declaring (by s. 7) that no person shall suffer death,

unless it be for some felony, which was either excluded from the benefit of clergy before the first day of the then sessions, or which should be made punishable with death after that day. The above statute of 7 Will. 4 & 1 Vict. c. 89, does not touch the enactment of the 12 Geo. 3, c. 24.

persons *dissenting* from the united church of England and Ireland,—or shall unlawfully and maliciously set fire to any *house, stable, coachhouse, outhouse, warehouse, office, shop, mill, malthouse, hop-oast, barn, or granary, or to any building or erection used in carrying on any trade or manufacture, or any branch thereof*, whether the same, or any of them respectively, shall then be in the possession of the offender, or in the possession of any other person, with intent thereby to injure or defraud any person; *Felony, Transportation for life, or not less than fifteen years, or imprisonment, not exceeding three years.*

By sect. 4, whosoever shall unlawfully and maliciously set fire to, cast away, or in anywise destroy (*l*) any *ship or vessel*, either with intent to murder any person, or whereby the life of any person shall be endangered; *Felony, Death.*

By sect. 6, whosoever shall unlawfully and maliciously set fire to, or in anywise destroy, any *ship or vessel*, whether the same be complete, or in an unfinished state, or shall unlawfully and maliciously set fire to, cast away, or in anywise destroy (*l*), any ship or vessel, with intent thereby to prejudice any owner or part-owner of such ship or vessel or of any goods on board the same, or any person that hath underwritten or shall underwrite any policy of insurance upon such ship or vessel or on the freight thereof, or upon any goods on board the same; *Felony, Transportation for life, or not less than fifteen years, or imprisonment not exceeding three years.*

By sect. 9, whosoever shall unlawfully and maliciously set fire to any mine of coal or cannel coal; *Felony, same punishment as in sect. 6.*

By sect. 10, whosoever shall unlawfully and maliciously set fire to any *stack of corn, grain, pulse, tares, straw, haulm, stubble, furze, heath, fern, hay, turf, peat, coals, charcoal, or wood*; *Felony, same punishment as in sect. 6.*

By sect. 11, every principal in the second degree, and every *accessory before the fact* is punishable in the same manner as the principal in the first degree; and every *accessory after the fact* is liable to imprisonment not exceeding two years.

(*l*) There seems to be a great omission here, in not providing for the offence of *damaging* the ship, with intent to destroy her; for, according to this enactment, the most nefarious attempt to destroy her, by boring holes in her bottom, or otherwise damaging her, with a view to her destruc-

tion, will not render a party liable to punishment, unless the vessel is actually destroyed. The 33 Geo. 3, c. 67, s. 6, (which is now repealed by the 7 & 8 Geo. 4, c. 27) provided for the offence of *damaging*, as well as *destroying*, the ship.

By 7 & 8 Geo. 4, c. 30, s. 17, (which section, as far as it relates to the following offence, is unrepealed by the 7 Will. 4 & 1 Vict. c. 89,) setting fire to any *crop of corn, grain, or pulse, whether standing or cut down; or to any part of a wood, coppice, or plantation of trees; or to any heath, gorse, furze, or fern, wheresoever the same may be growing; Felony, Transportation for seven years, or imprisonment not exceeding two years, with or without whipping.*

And see further, 1 Deac. Crim. L. 53.

See also *post*, title *Fires*.

1. *Warrant to apprehend an Offender charged with setting fire to a Dwelling-house.*

Essex, } To the constable of —, in the said county, and to all other peace officers in the said county.

Forasmuch as A. B. of —, in the said county, yeoman, hath this day made information and complaint upon oath, before me J. P., esq., one of her Majesty's justices of the peace for the said county, that on the — day of —, at —, in the county aforesaid, a certain dwelling-house of the said A. B. there situate was, as he verily believes, wilfully, maliciously, and unlawfully set fire to, and that he the said A. B. hath just cause to suspect, and doth suspect, that one C. D. of —, in the said county, labourer, did unlawfully and maliciously set fire to the said dwelling-house; These are therefore to command you, in her Majesty's name, to apprehend the said C. D., and bring him before me to answer the said complaint, and to be further dealt with according to law. Given under my hand and seal this — day of —, 1842.

2. *Commitment for setting Fire to a Stack of Corn.*

Kent, } To the constable of —, in the said county, and to the keeper of the common gaol at —, in the said county.

These are to command you, the said constable, in her Majesty's name, forthwith to convey and deliver into the custody of the keeper of the said common gaol the body of C. D., charged this day before me J. P., esq., one of her Majesty's justices of the peace for the said county, on the oath of A. B. of —, in the said county, farmer, for that he the said C. D., on the — day of —, at the parish of — aforesaid, unlawfully, maliciously, and feloniously did set fire to a certain stack of wheat of the said A. B. then and there being, against the form of the statute in such case made and provided. And you the said keeper are hereby required to receive the said C. D. into your custody in the said common gaol, and him there safely keep, until he shall be thence delivered by due course of law. Given under my hand and seal this — day of —, 1842.

Articles of the Peace—See *Surety for the Peace*.

Artificers—See *Servants*.

Assault.

ON persons assisting Wrecks.—By 9 Geo. 4, c. 31, s. 24, if any person shall assault and strike, or wound, any magistrate, officer, or other person whatsoever, lawfully authorized, on account of the exercise of his duty, in or concerning the preservation of any vessel in distress, or of any vessel or goods wrecked, stranded, or cast on shore, or lying under water; Transportation for seven years, or imprisonment at discretion of the court.

With intent to commit Felony, &c.—By sect. 25, any assault, *with intent to commit felony*,—upon any peace officer or revenue officer, in the due execution of his duty, or upon any person acting in his aid,—upon any person, *with intent to resist or prevent the lawful apprehension or detainer* of the party so assaulting, or of any other person, for any offence for which he may be liable by law to be apprehended or detained,—and any assault committed in pursuance of any conspiracy to raise the rate of wages; are punishable with *imprisonment not exceeding two years, and fine, with sureties for keeping the peace.*

In the following cases, the assault is punishable by *two justices* on summary conviction.

With intent to deter Seamen, &c. from working.—By sect. 26, if any person shall unlawfully and with force hinder any seaman, *helmsman, or caster* from working at or exercising his lawful trade, business, or occupation, or shall beat, wound, or use any other violence to him, with intent to deter or hinder him from working at or exercising the same; or if any person shall beat, wound, or use any other violence to any person, *with intent to deter or hinder him from selling or buying any wheat or other grain, flour, meal, or malt*, in any market or other place, or shall beat, wound, or use any other violence to any person having the care or charge of any wheat, &c., whilst on its way to or from any city, market-town, or other place, with intent to stop the conveyance of the same; every such offender may be convicted thereof before *two justices*, and **imprisoned and kept to hard labour in the common gaol or house of correction for not more than three calendar months.* But no person, who shall be punished by virtue of this provision, shall be punished for the same offence, by virtue of any other law.

Common Assaults.—By sect. 27,—which recites that it is expedient to provide a summary power of punishing persons for *common*

assaults and batteries,—where any person shall *unlawfully assault or beat* any other person, *two* justices, on complaint of the party aggrieved, may hear and determine such offence; and the offender, upon conviction thereof before them, shall forfeit and pay such fine as shall appear to them to be meet, not exceeding, with costs, 5*l.*, to be paid to one of the officers of the parish in which the offence is committed, for the use of the county fate. Inhabitants of the county to be competent witnesses. In default of payment, commitment to the common gaol or house of correction for not more than two calendar months.

If the justices, upon hearing of the case, shall deem the assault not to be proved, or to have been justified, or so trifling as not to merit any punishment, and shall accordingly dismiss the complaint, they shall forthwith make out a certificate under their hands, stating the fact of such dismissal, and deliver it to the party against whom the complaint was preferred.

By sect. 28, the party who obtains such certificate, or who, having been convicted, shall have paid the whole amount adjudged to be paid, or shall have suffered the imprisonment awarded, is released from all other proceedings, civil or criminal, for the same cause.

Special provision for certain Assaults.]—By sect. 29, if the justices shall find the assault to have been accompanied by any attempt to commit felony, or shall be of opinion that the same is, from any other circumstance, a fit subject for a prosecution by indictment, they shall abstain from any adjudication thereupon, and shall deal with the case in all respects in the same manner as they would have done before the passing of the act. And they are also prohibited from determining any case of assault, in which any question shall arise as to the title to any lands, tenements, or hereditaments, or any interest therein or accruing therefrom, or as to any bankruptcy or insolvency, or any execution under the process of any court of justice.

Proceedings against Offenders.]—By sect. 33, where any person is charged, upon the oath of one witness, with any offence under the act punishable on summary conviction, a justice may summon the offender before two justices, and if he shall not appear, then, upon proof of personal service of the summons, the justices may either proceed *ex parte*, or may issue their warrant for apprehending such person and bringing him before them; or the justice, before whom the charge shall be made, may (if he shall so think fit) issue such warrant in the first instance, without any previous warrant.

By sect. 34, offences punishable on summary conviction must be prosecuted within three calendar months.

By sect. 35, a general form of conviction is given.

Sect. 36, no *certiorari*; and no warrant of commitment to be void for any defect therein, if it allege that the party has been convicted, and there be a good and valid conviction.

Assaults committed at Sea.]—By 5 & 6 Will. 4, c. 19, s. 38, in case of any assault or battery committed on board of any merchant ship belonging to any subject of the united kingdom, in any place at sea, or out of his Majesty's dominions, two justices in any part of his Majesty's dominions, upon complaint of the party aggrieved, may hear and determine the complaint, as by the 9 Geo. 4, c. 31. And the fine imposed in any such case shall be payable to the merchant seamen's hospital or institution at or nearest to the place where the party is convicted.

1. Warrant for an Assault.

County of } To A. C. the constable of —, in the said county, and to all other
Kent. } constables of the said county, and others whom this may concern.

Whereas complaint hath been made before me, J. P., esq., one of her Majesty's justices of the peace in and for the said county, upon the oath of A. B. of —, in the said county, labourer, that C. D. of — aforesaid, yeoman, on the — day of —, did violently assault and beat him the said A. B. at — aforesaid, in the county aforesaid; These are therefore in her Majesty's name to command you forthwith to apprehend the said C. D., and to bring him before me to answer unto the said complaint, and to be further dealt with according to law. Given under my hand and seal the — day of January, 1842.

2. Commitment for an Assault, and for want of Sureties.

Kent, } To —, constable, and to all other her Majesty's officers of the peace
to wit. } whom these may concern, and to the keeper of the house of correction, in the county of —.

Whereas C. D. was this day brought and charged before me, J. P., esquire, one of her Majesty's justices of the peace for the said county of Kent, on the oath of A. B., with assaulting and beating him the said A. B., and with committing divers misdemeanors against her Majesty's peace. And whereas the said C. D. (although by me required so to do) hath refused, and doth refuse to find sureties as well for his personal appearance at the next quarter sessions of the peace which shall be holden in and for the said county of Kent, to answer the premises, as also in the meantime to keep her Majesty's peace to all her liege subjects, particularly towards the said A. B.: These are therefore in her Majesty's name to command you the said constable or other peace officer, safely to convey the said C. D. and deliver him to the keeper aforesaid, requiring you the said keeper to receive and safely to keep the said C. D., until he shall find such sureties, or otherwise be discharged by due course of law. Given under my hand and seal this — day of —, 1842.

J. P. (L. S.)

3. *Conviction on 9 Geo. 4, c. 31, s. 27, for an Assault (m).*

Kent, } Be it remembered, that on the — day of —, in the year of our Lord
to wit. } —, at —, in the county of —, [or “riding, division, city, liberty,”
&c. *as the case may be*] A. O. is convicted before us [*naming the justices*], two of her
Majesty’s justices of the peace for the said county [or “riding,” &c.], for that he the
said A. O. did [*specify the offence, and the time and place when and where the same was*
committed, as the case may be]; and we the said justices do, according to, and under
and by virtue of, the said statute, adjudge the said A. O. for his said offence to be im-
prisoned in the house of correction at —, in the county aforesaid, and there kept to
hard labour for the space of —, [or “we adjudge the said A. O. to forfeit and pay
the sum of £—, and also to pay the sum of 12s. 6d. for costs; and in default of
immediate payment of the said sums, to be imprisoned in the common gaol in and for
the said county of —, for the space of —, unless the said fine and costs shall be
sooner paid; or “and we order that the said sums shall be paid by the said A. O. on
or before the — day of —”] and we direct that the said sum of £— [*i. e. the*
amount of the fine] shall be paid to —, of the parish of — aforesaid, in which the
said offence was committed, to be by him applied according to the directions of the
statute in that case made and provided; and we order that the said sum of 12s. 6d.
for costs shall be paid to C. D. [*the party aggrieved*]. Given under our hands and
seals, the day and year first above-mentioned.

Assemblies Unlawful—See **Combinations, Disorderly House, Riot, Military Training.**

Attempts to Murder, or Maim—See **Murder, Maiming.**

Assizes.

ALL the justices of the peace of any county, wherein the assizes are held, are bound by law to attend them, (or else they are liable to a fine,) in order to return recognizances, &c., and to assist the judges in such matters as lie within their knowledge and jurisdiction, and in which some of them have probably been concerned, by way of previous examination. (n)

Attorney.

AN attorney has no right to be present at the investigation of a charge of *felony* against his client before a magistrate, but is only permitted to attend as a matter of courtesy; for such an investigation is only preliminary, and not conclusive. Neither, if he is permitted to be present, can he comment on the evidence, so as to apply the

(m) This form of conviction is given by the statute.

(n) 4 Bla. Com. 269; and see further, 1 Deac. Crim. L. 73.

law to it; unless he is requested by the magistrate to give his opinion and advice upon the case (*o*). And even in summary proceedings before a magistrate, where he exercises a *judicial*, and not merely a *ministerial*, authority,—although such proceedings ought not to be private, and the magistrate is not warranted in removing a party who happens to be present, unless he interrupts the proceedings (*p*),—yet an attorney has in this case no right to act as an advocate before the justice, or take part in the proceedings, without his permission (*q*).

By 12 Geo. 1, c. 29, s. 4, (made perpetual by 21 Geo. 2, c. 3,) if any person convicted of common barratry shall practise as an attorney, solicitor, or agent, in any suit or action, the judge or judges of the court where such suit or action shall be brought shall, upon complaint or information, examine the matter in a summary way in open court; and if it shall appear that the person complained of has offended, shall cause the offender to be *transported for seven years*.

For embezzlement by attorneys, see *post*, **Embezzlement**.

—♦—
Backings Warrants—See **Warrant**.

—♦—
Badger-baiting—See **Bull-baiting**.

—♦—
Bail—And see **Commitment**.

WHERE *admissible on Charges of Felony*.]—The power of magistrates to admit persons to bail, who are brought before them on charges of felony, is now regulated by the 7 Geo. 4, c. 64, and 5 & 6 W. 4, c. 33, s. 3.

By 7 Geo. 4, c. 64, s. 1, if there shall be only *one* justice present, and the whole evidence given before him shall be such as neither to raise a strong presumption of guilt, nor to warrant the dismissal of the charge of felony, the justice is directed to order the accused to be detained in custody, until he can be taken before *two* justices. And if the evidence given in support of the charge shall, in their opinion, not be such as to raise a strong presumption of the guilt of the person charged; or if such evidence shall be adduced on his behalf as shall, in their opinion, weaken the presumption of his guilt,—but there shall, notwithstanding, appear to them, in either of such cases, to be sufficient ground for judicial inquiry into his guilt,—the person charged

(*o*) *Rex v. Borron*, 3 B. & Ald. 432. 237.

(*p*) *Daubney v. Cooper*, 10 B. & C. (*q*) *Collier v. Hicks*, 2 B. & Adol. 663.

shall then be admitted to bail by such two justices. But the justices are not required to hear evidence on behalf of the accused, unless it shall appear to be meet and conducive to the ends of justice to hear the same.

But now, by 5 & 6 W. 4, c. 33, s. 3, the justices may, if they think fit, of whom one or other shall have signed the warrant of commitment, admit any person charged with felony, or against whom any warrant for commitment for felony is signed, to bail, in the manner directed by the former act, in such sum or sums of money and with such surety or sureties as they shall think fit, notwithstanding such person shall have confessed the matter laid to his charge, or notwithstanding the justices shall not think that such charge is groundless, or shall think that the circumstances are such as to raise a presumption of guilt.

By 7 Geo. 4, c. 64, s. 2, the justices are required, before the party is bailed, to take his examination and the depositions of the witnesses in writing; and they must afterwards certify such bailment in writing under their hands, and deliver that, with the examination and depositions, to the proper officer of the court in which the party is to be tried, before or at the opening of the court; that is, on the first day of the assizes or sessions.

Although these statutes give two justices a discretionary power to take bail in *all* cases of felony, yet there are certain offences with which a party may be charged, where it would be rather hazardous for them to exercise that discretion. For, before the power given by these statutes, a justice was prohibited from taking bail in cases of *treason, murder, maiming, arson, burglary, coining, forgery, and sodomy*; in all cases of *larceny*, where the party was taken with the *mainour*, that is, with the thing stolen in his hands,—and of *manslaughter*, where the prisoner was clearly the *slayer* of the deceased (*r*). And if bail should be taken where it ought not to be admitted, and the criminal should not appear to take his trial, the magistrates would be liable to be fined by the judges of assize, and would be punishable, moreover, as for a negligent escape at common law; and in some cases, also, the Court of King's Bench would grant a criminal information against them (*s*).

In cases of Misdemeanour.—For all offences not amounting to felony, a magistrate may admit the party to bail, unless bail be pro-

(*r*) 2 Hale, 133; 2 Hawk. C. 15.

(*s*) 2 Hale, 139; 2 Hawk. c. 15, s. 6; 2 Str. 1216.

hibited by some special act of parliament; and if he refuse or delay to do so, he is liable to an indictment for a misdemeanour, and also to an action at the suit of the party who is thus wrongfully imprisoned (t).

Number and Amount of Bail.—The number of bail should be *two*, at least; and the amount may be such as the justices in their discretion shall think fit to require, having a consideration to the ability and quality of the prisoner, and the nature of the offence (u). But it is expressly enacted by the stat. 1 W. & M. stat 2, c. 1, that excessive bail ought not to be required.

And see further, 1 Deac. Crim. L. p. 100, *et seq.*

Personating Bail.—By 11 Geo. 4 and 1 Will. 4, c. 66, s. 11, 26, if any person shall, before any court, judge, or other person lawfully authorized to take any recognizance or bail, acknowledge any recognizance or bail in the name of any other person not privy or consenting to the same, whether such recognizance or bail in either case be or be not filed, he is declared to be guilty of *felony*, and liable to be *transported for life, or not less than seven years, or to be imprisoned not exceeding four years, nor less than two years, with or without hard labour and solitary confinement.*

The Form of a Recognizance of Bail.

Sussex, } Be it remembered, that on the — day of —, in the — year of the
to wit. } reign &c., A. B., of —, yeoman, G. H., of —, yeoman, and I. K., of
—, yeoman, came before us, J. P. and R. L., esquires, two of her Majesty's justices of the peace for the said county, and severally acknowledged to owe to our said Lady the Queen, that is to say, the said A. B. the sum of 20*l.*, and the said G. H. and I. K. the sum of 10*l.* each, to be respectively levied of their lands and tenements, goods and chattels, if the said A. B. shall make default in the performance of the condition underwritten. The condition of this recognizance is such, that if the above-bound A. B. shall personally appear before the justices of our Sovereign Lady the Queen, assigned to keep the peace within the said county, and likewise to hear and determine divers felonies, trespasses, and other misdemeanours in the said county committed, at the next general quarter sessions of the peace [*or, if at the Assizes, "before her Majesty's justices of gaol delivery, at the next general gaol delivery"*] to be holden in and for the said county, then and there to answer to our said Sovereign Lady the Queen for and concerning the felonious taking and stealing of —, the property of A. M., of —, yeoman, with the suspicion whereof the said A. B. stands charged before us, the said justices, and to do and receive what shall by the court be then and there enjoined him, and shall not depart the court without licence; then the above-written recognizance shall be void, but otherwise to remain in full force and virtue.

Upon this recognizance being taken, the defendant is discharged as of course, if personally present before the magistrate; but if he be in prison, the justice, upon application, issues the following

Warrant of Deliverance.

Sussex, } J. P., esquire, and R. L., esquire, two of her Majesty's justices of the
to wit. } peace for the said county, to the keeper of her said Majesty's gaol at —, in the said county.

Forasmuch as A. B., late of —, in the said county, labourer, hath before us found sufficient sureties for his appearance before the justices at the next general quarter sessions of the peace [or, "her said Majesty's justices of gaol delivery, at the next general gaol delivery"] to be holden in and for the said county, to answer to our said Sovereign Lady the Queen for and concerning the felonious taking and stealing of —, the property of A. M., yeoman, for the suspicion whereof he was taken and committed to our said gaol: We therefore hereby command you, on behalf of our said Sovereign Lady the Queen, that if the said A. B. do remain in your said gaol for the said cause, and for no other, you shall forbear to detain him any longer, but that you deliver him thence, and suffer him to go at large, and that upon the pain that will thereon ensue. Given under our hands and seals, at —, in the county aforesaid, the — day of —, in the year of our Lord 1842.

J. P.

R. L.

—◆—
Bakers—See Bread.

—◆—
Bankers—See Embezzlement.

—◆—
Bank-notes—See Forgery.

—◆—
Banks for Savings—See Savings Banks.

—◆—
Banks of Rivers, &c.

BY 7 & 8 Geo. 4, c. 30, s. 12, if any person shall unlawfully and maliciously break down, or cut down, any *sea bank or sea wall, or the bank or wall of any river, canal, or marsh*, whereby any lands shall be overflowed or damaged, or shall be in danger of being so; or shall unlawfully and maliciously throw down, level, or otherwise destroy any *lock, sluice, flood-gate, or other work in any navigable river or canal*;—*Felony; Transportation for life, or not less than seven years; or imprisonment, not exceeding four years, with or without whipping.*

By the same section, if any person shall maliciously cut off, draw up, or remove any *piles, chalk, or other materials, fixed in the ground,*

and used for securing any *sea bank*, &c.; or shall unlawfully and maliciously open or draw up any *flood-gate*, or do any other injury or mischief to any *navigable river or canal*, with intent and so as thereby to obstruct or prevent the carrying on, completing, or maintaining the navigation thereof;—*Felony*; *Transportation for seven years*; or *imprisonment, not exceeding two years, with or without whipping*.

Bankrupt.

BY 6 Geo. 4, c. 16, s. 112, if any person against whom any commission has been issued, or shall hereafter be issued, whereupon such person hath been or shall be declared bankrupt, shall not, before three of the clock upon the forty-second day after notice thereof in writing to be left at the usual place of abode of such person, or personal notice in case such person be then in prison, and notice given in the London Gazette of the issuing of the commission and of the meetings of the commissioners, surrender himself to them, and sign or subscribe such surrender, and submit to be examined before them from time to time upon oath, or, being a Quaker, upon solemn affirmation; or if any such bankrupt, upon such examination, shall not discover all his real or personal estate, and how and to whom, upon what consideration, and when, he disposed of, assigned, or transferred any of such estate, and all books, papers, and writings, relating thereunto (except such part as shall have been really and *bonâ fide* before sold or disposed of in the way of his trade, or laid out in the ordinary expense of his family); or if any such bankrupt shall not, upon such examination, deliver up to the commissioners all such part of such estate, and all books, papers, and writings, relating thereunto, as be in his possession, custody, or power, (except the necessary wearing apparel of himself, his wife, and children); or if any such bankrupt shall remove, conceal, or embezzle any part of such estate to the value of 10*l.* or upwards, or any books of account, papers, or writings, relating thereto, with intent to defraud his creditors;—*Felony*; *Transportation for life, or not less than seven years*; or *imprisonment with or without hard labour, not exceeding seven years*.

By *sect. 99*, any bankrupt, or other person, who shall, in any examination before the commissioners, or in any affidavit or deposition under that or any former bankrupt act, wilfully and corruptly swear falsely, shall suffer the pains and penalties of *perjury*.

By 1 & 2 Geo. 4, c. 115, s. 21, the commissioners of bankruptcy

may direct their messenger to take into custody any person who shall commit any riot or disturbance, or who shall interrupt them in the exercise of their duty, and to take him before any alderman or magistrate to be dealt with according to law.

1. Commitment of a Bankrupt for concealing his Effects, on 6 Geo. 4, c. 16, s. 112.

Middlesex, } J. P., esquire, one of her Majesty's justices of the peace for the said
to wit. } county, to the constable of —, in the said county, and to the keeper of
the common gaol at —, in the said county.

These are to command you, the said constable, in her Majesty's name, forthwith to convey and deliver into the custody of the said keeper of the said common gaol the body of C. D., charged this day before me, the said justice, on the oath of A. B.; for that he, the said C. D., on &c. at &c., after he had been found a bankrupt upon a fiat in bankruptcy duly awarded and issued against him, did feloniously remove, conceal, and embezzle part of his estate, to the value of 10*l.* and upwards, with intent to defraud his creditors, against the statute in such case made and provided: And you, the said keeper, are hereby required to receive the said C. D. into your custody in the same common gaol, and him there safely keep, until he shall be thence delivered by due course of law. Given under my hand and seal, this — day of —, in the year of our Lord 1842.

J. P. (L. S.)

2. Commitment of a Bankrupt for not Surrendering, under the same Statute.

[Commencement as before]; for that the said C. D. feloniously omitted to surrender himself to a certain fiat in bankruptcy, duly awarded and issued against him on the — day of —, at the Court of Commissioners of Bankrupts, in Basinghall-street, London, being the day and place appointed in the London Gazette for the purpose of surrendering himself to the said fiat, and finishing his examination, contrary to the statute in such case made and provided: And you, the said keeper, &c. [*as above.*]

Bastard.

FOR concealment of the birth of a bastard child, see *post*, **Birth of Children.**

By 4 & 5 Will. 4, c. 76, s. 69, all statutes relating to the affiliation of bastards born after the passing of the act, and to the punishment of the mother or putative father, or which render the mother removable, are repealed; and by *sect.* 71, every such bastard child is in future to follow the settlement of its mother, until it attains the age of sixteen, or acquires a settlement in its own right, and the mother is until then liable to maintain it, whilst she remains unmarried, or a widow.

Order of Affiliation.—By 2 & 3 Vict. c. 85, s. 1, the power to make an original order in bastardy is now transferred to *two justices* at a special or petty sessions. The application must be made by the

guardians of the parish, or of the union in which the parish is situate, or if there are no guardians, then by the overseers of the parish, to the justices holding any special or petty session for the division within which the union or parish is situate, within three calendar months after the child shall have become chargeable to the parish, by reason of the liability of the mother of the child to provide for its maintenance. The order is to be made upon the person whom the guardians or overseers shall charge with being the putative father of the child, to reimburse the union or parish for its maintenance and support; and the justices are to proceed with the application, and to have all the powers and duties in regard thereto, which were given to the quarter sessions by the 4 & 5 Will. 4, c. 76; and all enactments in that act relative to the court of quarter sessions are applicable to the justices in petty sessions, except that the notice to the person intended to be charged with being the father need not be given more than seven days, instead of fourteen days, before the session at which the application shall be heard.

Compelling attendance of Witnesses.—By sect. 2, any justice, upon the request of either party, may summon any witness to give evidence upon the matter of any such charge, and by warrant under his hand and seal, may require any person to be brought before him who shall neglect or refuse to appear to give evidence at the time and place appointed in such summons; proof upon oath being first given of personal service of the summons, and that the reasonable expenses of attendance were paid or tendered to such person; and the justices before whom the charge is heard may commit any party refusing to give evidence to the house of correction for not more than fourteen days, or until the party shall sooner submit himself to be examined.

Appeal to the Sessions.—By sect. 3, if the person charged with being the putative father shall declare to the justices his desire that the charge shall be heard at the quarter sessions, and shall enter into a recognizance with two sureties to appear at the quarter sessions then next, or next but one ensuing, to answer to the charge and abide the judgment of the court, and to pay all costs in case the court adjudge him to be the putative father of the child, then the justices shall not proceed further to hear the charge, but shall transmit such recognizance to the clerk of the peace; and all further proceedings in the matter shall be had before the court of quarter sessions.

As the justices in petty sessions are, under this last-mentioned act, to have all the powers and duties in regard to the application

of the guardians or overseers, which were given to the court of quarter sessions by the former act, it will be necessary to ascertain what those powers and duties were.

Restrictions as to Order.—By the 4 & 5 Will. 4, c. 76, s. 72, the court of quarter sessions, if it was satisfied, after hearing both parties, that the person charged was really and in truth the father of the child, might make such order upon the party as to the court should appear just and reasonable, under all the circumstances of the case. But no order was to be made, unless the evidence of the mother of the child was corroborated in some material particular by other testimony, to the satisfaction of the court. And the order was in no case to exceed the actual expense incurred, or to be incurred, for the maintenance and support of the child while chargeable to the parish, and was to continue in force only until the child should attain the age of seven years; and no part of the money paid by the putative father was to be paid to the mother of the child, or applied towards her maintenance and support.—An order under this section was held bad, where it alleged, merely, that the sessions heard evidence in corroboration of the mother's statement, without adding that the corroboration was in *some material particular* (x).

Notice and Costs.—By *sect. 73*, the notice to be given by the overseers or guardians to the putative father of the intended application to the sessions, must be in writing under their hands. The costs of the maintenance of the child are to be calculated from its birth, if within six calendar months previous to the application being heard; but if it occurred more than six calendar months previously, then from the day of the commencement of the six calendar months preceding the hearing. If the justices shall not think fit to make any order of maintenance, they may direct that the costs incurred by the party charged as the putative father shall be paid by the overseers or guardians.

The following may be the Form of the Notice from the Overseers or Guardians to the Putative Father.

Whereas, A. B., single woman, was, on the — day of — last, delivered of a male bastard child, which, on the — day of — last, by reason of the inability of the said A. B. to provide for its maintenance, became chargeable to the parish of —, in the county of —, and from thence hitherto hath been maintained and supported by the said parish: And whereas we, the undersigned, being overseers [or “guardians”] of the poor of the said parish, having made diligent inquiry, find that you C. D. are the father of the said child, we hereby give you notice, that we intend to make application to the justices of the peace at a special sessions (y) for the division of —, in

(x) *Reg. v. Read*, 9 Ad. & E. 619.

(y) See 2 & 3 Vict. c. 85, s. 1, *ante*, p. 83.

the county aforesaid, in which the said parish is situate, for an order upon you, the said C. D., to reimburse the said parish for the maintenance and support of the said child. Dated this — day of —, 1842.

To C. D. of —.

E. F. } Overseers [or "guardians"]
G. H. } of the poor of —.

Where the party fails to appear.—By sect. 74, if the party charged shall not appear by himself or his attorney, at the time when the application shall come on to be heard, according to such notice, the justices may nevertheless proceed to hear the same, unless the overseers or guardians shall produce an agreement under his hand, to abide by such order as the court shall make thereon, without the hearing of evidence; but the court may, notwithstanding such agreement, require that evidence shall be given in support of the application.

Summons and Recognizance.—By sect. 75, whenever the overseers or guardians shall have determined to make such an application against any party, a justice of the peace may, at their request, summon the party charged to appear before him; and if the justice is satisfied that he has any intention to abscond or keep out of the way, in order to avoid the consequences of such application, the justice may require him to enter into a recognizance to appear and answer thereto; and in case the party shall refuse or neglect to enter into such recognizance, the justice may commit him to the gaol or house of correction until he shall enter into such recognizance, or until the application shall be heard.

Where Payments in arrear.—By sect. 76, if, after one calendar month from the making of any order, it shall appear to one justice, upon the oath of any one of the overseers or guardians, that the payments directed by the order are in arrear, the justice may, by warrant under his hand and seal, cause the putative father to be brought before two justices, and in case he shall not make payment of such sum as shall appear to be due, together with the costs of apprehension, the justices may proceed to recover the same by distress, or by attaching his wages, in the same manner as wages may be attached under the provisions of the 59th section of the act.

1. *Application to a Justice against the putative Father, where it is expected he will abscond.*

Sussex, } The information and request of A. B., one of the overseers [or "guardians"] of the poor of the parish [or "union"] of —, in the county of —, taken and made before me, —, one of her Majesty's justices of the peace in and for the said county, this — day of —, in the year of our Lord 1842; who

saith, that the overseers [or "guardians"] of the poor of the said parish [or "union"] have determined to make application to such of the justices of the peace for the said county as shall be present at a special sessions for the division of —, in the county aforesaid, in which the said parish [or "union"] is situate, for an order upon C. D., of —, tailor, to reimburse the said parish [or "union"] for the maintenance and support of a male bastard child, of which he is charged by the said A. B. with being the reputed father, and which child was born on the — day of —, of the body of E. F., of the said parish [or "union,"], single woman, and is now living in the said parish [or "union"], and by reason of the inability of the said E. F. to provide for its maintenance, hath become chargeable to the said parish [or "union"]. And this informant requests that I will summon the said C. D. to appear before me, and if I shall be satisfied that he has any intention to abscond or keep out of the way, in order to avoid the consequence of such application, that I will require him to enter into such recognizance in that behalf as is required by law.

Taken before me, the day and year }
first above written, }

A. B.

2. *Summons thereon, on the putative Father.*

Sussex, } To C. D., of —, in the county of —.
to wit. }

Whereas, A. B., one of the overseers of the poor of the parish of —, in the said county, hath this day made information and request before me, one of her Majesty's justices of the peace in and for the said county, that the overseers of the poor of the said parish have determined to make application, &c. [*to the end of the above information, merely addressing the putative father in the second person, instead of describing him in the third*]. These are therefore to require you personally to be and appear before me, or such other of her Majesty's justices of the peace acting in and for the said county as shall be present at —, in the said county, on the — day of —, at — o'clock in the forenoon, then and there to enter into such recognizance accordingly, if required so to do. Given under my hand, this — day of —, in the year of our Lord 1842.

3. *Recognizance of the putative Father to appear at the Petty Sessions.*

Sussex, } Be it remembered, that on the — day of —, in the year of our Lord
to wit. } 1842, at —, in the county of —, C.D., of —, in the county of —, tailor, personally came before me, J. P., one of her Majesty's justices of the peace in and for the said county, and acknowledged himself to be indebted to our Lady the now Queen, in the sum of £ —, of lawful money of Great Britain, to be made and levied of his goods and chattels, lands and tenements, to the use of our said Lady the Queen, her heirs and successors, if the said C. D. shall make default in the condition underwritten.

Whereas, C. D., one of the guardians of the poor of the union of —, in the county aforesaid, on the — day of — instant, made information and request to me, J. P., esquire, one of her Majesty's justices of the peace in and for the county aforesaid, that the guardians of the poor of the said union had determined to make application, &c. [*set forth the information to the end*]: Whereupon the said C. D. was summoned to appear before me, the said justice, or such other of her Majesty's justices of the peace acting in and for the said county as should be present at —, in the said county, on

the day of the date hereof: And the said C. D. having accordingly now appeared before me, the said justice, and I, the said justice, having ascertained that the said bastard child is now living in and at the charge of the said union, and being satisfied that the said C. D. has an intention to abscond and keep out of the way, in order to avoid the consequences of the said application, have required the said C. D. to enter into the recognizance above-written, which he is accordingly content to do: The condition therefore of the above-written recognizance is such, that if the above-bounden C. D. shall personally appear before such of the justices of the peace for the said county as shall be present at a special sessions to be holden in and for the division of —, within the same county, and then and there answer the above-written charge of the said guardians of the poor, and not depart the court without leave, then the above-written recognizance to be void, but otherwise to be and remain in full force and virtue.

Taken and acknowledged before me, the }
day and year first above written. }

4. *Commitment for refusing to enter into a Recognizance.*

Sussex, } To —, the constable of the parish of —, in the county of —, and
to wit, } to —, the keeper of the house of correction at —, in the said county.

Whereas, on the — day of — instant, A. B., one of the guardians of the poor of the union of —, in the said county, gave information to me, J. P., esquire, one of her Majesty's justices of the peace in and for the said county, that the guardians of the poor of the said union had determined to make application, &c. [to the end of the information]: And whereas I, the said justice, did thereupon duly summon the said C. D. to appear accordingly on the day of the date hereof, at —, in the said county, for the purpose aforesaid; and the said C. D. having this day appeared before me, the said justice, in pursuance of the said summons, and it duty appearing to me by evidence upon oath that the said C. D. has an intention to abscond and keep out of the way, in order to avoid the consequences of the said application, I, the said justice, did require him to enter into a recognizance to our Lady the present Queen, in the sum of £—, to appear before such of the justices of the peace for the said county as should be present at a special sessions to be holden in and for the division of —, in the said county, and then and there answer to the said charge and application; but the said C. D. having refused, and now refusing, to enter into such recognizance, without having shown any sufficient cause why he should not enter into the same, contrary to the form of the statute in such case made and provided: Now I, the said justice, in pursuance of the said statute, do hereby require you the said constable, forthwith to convey the said C. D. to the said house of correction, at —, in the said county; and you the said keeper are hereby required to receive and safely keep him therein, until he shall enter into such recognizance, or until such application shall be heard as aforesaid. Given under my hand and seal, this — day of —, in the year of our Lord 1842.

5. *Order of Maintenance, under the provision of the 4 & 5 W. 4, c. 76, and the 2 & 3 Vict. c. 65.*

At a special sessions of her Majesty's justices of the peace acting for the division of —, in the county of Lancaster, holden at —, in the said county, on the — day of —, in the year of our Lord 1842.

Whereas, upon application and complaint made to us, two of the said justices, now

here assembled, by the guardians of the poor of the union of —, in the county aforesaid, concerning a male bastard child, begotten on the body of M. Y., single woman, and chargeable to the said union, it appeareth unto us, the said justices, as well upon the application and complaint of the said guardians, as upon the oath of the said M. Y., that she the said M. Y. was, on the — day of — last, delivered of a male bastard child, which, by reason of the inability of the said M. Y. to provide for its maintenance, hath become and is chargeable to the said union of —, and is likely to continue so : And whereas the said guardians, after diligent inquiry on the subject, charge C. D. of —, in the county aforesaid, tailor, with being the putative father of such child ; and it having been duly proved to us that notice in writing under the hands of —, guardians of the poor of the said union, has been given to the said C. D. of this application for our order upon him to reimburse the said guardians for the maintenance and support of the said child, according to the statute in that case made and provided, and that seven days have elapsed since the giving of such notice : And whereas the said C. D. hath appeared before us this day to answer the said charge, but hath not shown any sufficient cause why he is not really and in truth the father of the said child ; [or, if he does not appear, “ And whereas the said C. D. hath not appeared before us this day, either by himself or his attorney”] : Now, upon due examination and inquiry into the truth of the said charge, and after hearing evidence thereon, as well upon the oath of the said M. Y., as upon the oaths of other persons, that is to say, G. H. and K. V., corroborating to our satisfaction, in several *material particulars* (z), the evidence of the said M. Y. ; and after hearing what the said C. D. has to say in his defence, we, the said justices, are satisfied, and do accordingly order and adjudge that the said C. D. is the putative father of the said child ; and we find that the said child, by reason of the inability of the said M. Y. to provide for its maintenance, became chargeable to the said union on the — day of — last, and from that time hitherto hath been and still is chargeable to the said union, and is likely to continue so : And we do further order and adjudge that the said C. D. do forthwith reimburse and pay to the said guardians the sum of £ —, being the amount of the actual expense by them incurred for the maintenance and support of the said child from the — day of — (a), when the said child first became chargeable as aforesaid, to the present day, which expense has been duly ascertained, as well on the oath of N. T., one of the officers of the said guardians, as otherwise, before us : And we do further order and adjudge that the said C. D. do pay to the guardians of the poor of the said parish for the time being, weekly and every week from henceforth, until the said child shall attain the age of seven years, (if the said child shall so long live and continue to be chargeable to the said union,) such sum and sums of money as shall be weekly expended by or on behalf of the said union for the maintenance and support of the said child during the time last aforesaid, not exceeding the sum of — in each and every week. Given under our hands and seals this — day of —, in the year of our Lord 1842.

6. *Information for the recovery of Arrears against the Father, upon an Order of Filiation.*

Lancaster, } The information and complaint of A. B., one of the guardians of the
to wit. } poor of the union of —, in the county aforesaid, taken upon oath before

(z) See *Reg. v. Read*, 9 Ad. & E. 619 ;
ante, p. 85.

(a) See 4 & 5 W. 4, c. 76, s. 73 ;
ante, p. 85.

me, J. P., esquire, one of her Majesty's justices of the peace in and for the said county, on the — day of —, in the year of our Lord 1842, who on his oath aforesaid saith, that by an order made by two of her Majesty's justices of the peace, at a special sessions for the division of —, in the said county, on the — day of — last, C. D., of —, in the said county, tailor, was adjudged to be the putative father of a male bastard child, then lately born of the body of M. Y., single woman, belonging to and having a settlement in the parish of —, forming part of the said union: And that in and by the said order it was ordered that the said C. D. should forthwith pay to the guardians of the poor of the said union the sum of £ — [as in the above order]: And this informant further saith, that the said C. D. hath had due notice of the said order, and that the said bastard child is now living in the said parish of —, forming part of the said union, under the age of seven years, and is chargeable to and maintained by the said union, at the expense of — per week, and that the payments directed to be made by the said order have not been made according thereto by the said C. D., and that there is now in arrear for the same the sum of £ —, for — weeks' maintenance and support of the said child, at the rate of — per week from the — day of — to the — day of — instant, and that demand of payment hath been made by this informant upon the said C. D., but that the said C. D. hath refused and neglected to pay the same, and the same now remains unpaid; and this informant therefore prayeth justice in the premises.

Sworn before me, the day and }
year first above written. }

7. *Warrant to apprehend (b) the Father, for not complying with the Order of Filiation.*

Kent, } To M. W., the constable of —, in the county of —, and all other
to wit. } officers of the peace in and for the said county.

Whereas information and complaint have been this day made upon oath before me, J. P., esquire, one of her Majesty's justices of the peace in and for the said county, by A. B., one of the guardians of the poor of the union of —, in the county aforesaid, that by an order made &c. [reciting the above information to the end]: These are, therefore, in her Majesty's name, to command you the said constable, or some or one of you, forthwith to apprehend the said C. D., and carry him before two of her Majesty's justices of the peace in and for the said county of Kent, to answer the premises, and to be further dealt with according to law. Given under my hand and seal, the — day of —, in the year of our Lord 1842. J. P. (L. s.)

8. *Warrant of Distress for not complying with the Order of Filiation.*

Kent, }
to wit. } To the constable of —.

Whereas information and complaint were on the — day of — instant made

(b) Where an order of filiation was made before the passing of the new Poor Law Act, it was held that a magistrate, under 49 Geo. 3, c. 68, s. 3, was bound to enforce the order by commitment, on proof that the sum was in arrear

and the child chargeable; and that he had no jurisdiction to inquire whether the sum was too large, or whether it was likely to be all applied to the maintenance of the child. *Reg. v. Codd*, 9 Ad. & E. 682.

before me, J. P., esquire, one of her Majesty's justices of the peace in and for the said county, by A. B., one of the guardians of the poor of the union of —, in the said county, &c. [*reciting the information to the end, as ante, p. 90*]: Whereupon the said C. D., being now brought before us, two of her Majesty's justices of the peace in and for the said county, to show cause why the same should not be paid, hath not shown any cause why he has not paid the same, but, on the contrary thereof, still refuses to pay the same to the said guardians: And it appearing to us, upon oath, that the said sum of £ — is still due from the said C. D., together with the further sum of £ — for the costs of his apprehension: These are, therefore, to require you forthwith to make distress of the goods and chattels of the said C. D.: And if, within the space of five days next after such distress by you taken, the said sums, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and out of the money arising by such sale thereof that you detain the said sums, and also the reasonable charges of taking, keeping, and selling the said distress, rendering the overplus, (if any,) on demand, unto the said C. D.; and if no such distress can be found, that then you certify the same unto us, to the end that such further proceedings may be had therein as to law doth appertain. Given under our hands and seals, this — day of —, in the year of our Lord 1842.

J. P. (L. s.)

J. M. (L. s.)

9. Information, to attach the Wages of the putative Father.

Sussex, } The information and complaint of A. B. &c. [*the same as ante, p. 89, to the*
to wit, } *end*]: And this informant therefore prays that justice may be done in the
premises, and that the said C. D. and T. O., of —, the master and employer of the
said C. D., or some person on his behalf, may be summoned to show cause why any
wages due, or which from time to time may become due, from the said master and em-
ployer to the said C. D., should not be paid over, in whole or in part, to the said guar-
dians of the poor of the said union of —, in discharge of such arrears as aforesaid.

Sworn before me, the day and }
year first above written. }

10. Summons on the Master, and the putative Father.

Sussex, } To T. O., of —, and C. D., of —.
to wit, }

Whereas information and complaint have been made on oath before me, J. P., esquire, one of her Majesty's justices of the peace for the said county of —, by A. B., one of the guardians of the poor of the union of —, that by an order, &c. [*as in the information, ante, p. 90, to the words "and the same now remains unpaid"*]: And further, that you, the said C. D., are in the employ of the said T. O., as a journeyman tailor: These are, therefore, to summon you the said T. O. and C. D. personally to be and appear before such two of her Majesty's justices of the peace in and for the said county of Sussex as shall be present at —, in the said county, on —, the — day of —, at — o'clock in the forenoon, then and there to show cause why any wages due, or which may from time to time become due, from you the said master and employer to the said C. D., should not be paid over, in whole or in part, to the said guardians of the poor, according to the form of the statute in such case

made and provided. Herein fail you not. Given under my hand, the — day of —, in the year of our Lord 1842.

11. Order on the Master to attach the Wages.

Sussex, } Whereas information and complaint were on the — day of —,
to wit. } inst., made before me, J. P., esq., one of her Majesty's justices of the peace for the said county, by A. B., one of the guardians of the poor of the union of —, that by an order, &c. [as in the information, ante, p. 90, to the words, "and the same now remains unpaid;"] And further, that the said C. D. was in the employment of T. O. of —. And whereas it hath this day been made to appear upon oath to us, two of her Majesty's justices of the peace for the said county, that the said T. O. and C. D. have been duly summoned to show cause why any wages due, or to become due, from the said T. O. as such master, to the said C. D. should not be paid over in whole or in part to the said guardians of the poor. And the said T. O. and C. D. have severally appeared before us this day, in pursuance of such summons, but have not shown any cause to the contrary; and it hath been proved to us this day upon oath, that the said sum of £— is still due and unpaid by and from the said C. D., contrary to the requisition of the said order, and that the said C. D. is now in the service and employ of the said T. O. as a journeyman tailor, at the wages of — per week; We therefore the said justices, in pursuance of the statute in such case made and provided, do hereby order and direct that the said T. O. do and shall from time to time hereafter pay to the said guardians of the poor of the said union for the time being the sum of — per week out of the wages to be earned by the said C. D. weekly and every week, so long as the said C. D. shall remain in the employ of the said T. O., unless the said sum of —, now due from the said C. D., shall be sooner paid. Given under our hands and seals at —, in the county aforesaid, this — day of —, in the year of our Lord 1842.

J. P. (L. s.)

M. R. (L. s.)

12. Warrant of Distress on the Master.

Sussex, } To the constable of —, in the said county, and to all other constables in and for the said county.

Whereas by an order duly made under the hands and seals of us, J. P. and M. R., esquires, two of her Majesty's justices of the peace in and for the said county, bearing date the — day of — last, T. O. of —, was ordered and directed to pay to the guardians of the poor of the union of —, in the county aforesaid, for the time being, out of the wages to be earned by the said C. D., and to become due from the said T. O., in whose employ the said C. D. then was, the sum of — weekly and every week, so long as the said C. D. should remain in the employ of the said T. O., unless the sum of —, then due from the said C. D. to the said guardians, should be sooner paid. And whereas it duly appears to us, on oath, that the said T. O. hath had due notice of the said order, and that since the making thereof, the said C. D. hath been continually and still is in the service and employ of the said T. O., and that the sum of —, on the — day of —, inst., became due and owing from the said T. O. to the said C. D. for wages earned by the said C. D. for — weeks, ending on the day last aforesaid, but that the said T. O. hath refused to pay the said sum of — per week out of the wages of the said C. D., so earned by him from week to week as afore-

said, and there remains now due to the said guardians in respect of such weekly payments so directed by the said order the sum of £—. These are therefore to command you forthwith to make distress of the said goods and chattels of the said T. O., and if within the space of five days next after such distress by you taken, the said sum of £—, and also the further sum of — for costs, together with the reasonable charges for taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and out of the money arising from such sale you do pay the said several sums of £— and £—, to the said guardians, or one of them, rendering the overplus, if any, upon demand unto the said T. O., the reasonable charges of taking, keeping, and selling the said distress being first deducted. And if no such distress can be made, that then you certify the same unto us, to the end that such further proceedings made be had therein, as to the law doth appertain. Given under our hands and seals at —, this — day of —, in the year of our Lord 1842.

J. P. (L. s.)

M. R. (L. s.)

Bawdy Houses.

BY 25 Geo. 2, c. 36, s. 5 (made perpetual by 28 Geo. 2, c. 19,) in order to encourage prosecutions against persons keeping bawdy houses, gaming houses, or other disorderly houses, it is enacted that if any two inhabitants of any parish, paying scot and lot, give notice in writing to the constable of the parish of any person keeping such a house, he shall forthwith go with them to *one justice*; and upon their making oath that they believe the contents of the notice are true, and entering into a recognizance of 20*l.* each to give material evidence against the offender, the constable shall enter into a recognizance of 20*l.* to prosecute the offender at the next sessions or assizes, as to the justices shall seem meet. The constable is to be allowed his reasonable expenses, to be ascertained by *two justices*, and paid by the overseers. And in case the offender be convicted, the overseers shall immediately pay 10*l.* to each of the two inhabitants, on pain of forfeiting in each case double that sum to the person entitled to it.

By *sect. 6*, the justice may, upon the constable entering into the above recognizance, issue his warrant to bring the person accused before him, and bind him over to appear at the sessions or assizes; and may likewise demand and take security for his good behaviour in the mean time.

By *sect. 8*, any person who shall appear, act, or behave himself or herself, as master or mistress, or as the person having the care, government, or management of any bawdy house, gaming house, or other disorderly house, shall be deemed and taken to be the keeper

thereof; notwithstanding he or she shall not, in fact, be the real owner or keeper thereof.

By *sect. 9*, any inhabitant or parishioner may give evidence, notwithstanding he has entered into the above mentioned recognizance; and by *sect. 10*, no indictment is removable by *certiorari*.

By 58 Geo. 3, c. 70, s. 7, a copy of the notice given by the constable must also be served upon one of the overseers, with reasonable notice to attend also before the justice; and if the overseer enter into a recognizance to prosecute, then the constable is not required to be bound over.

—◆—
Beer-baiting—See Bull-baiting.

—◆—
Beasts.

FOR the offence of stealing beasts, not being the subject of larceny at common law, see *post*, **Dog stealing.**

—◆—
Beer Shops.

WHAT Persons may be licensed.]—By 11 Geo. 4 & 1 Will. 4, c. 64, the general sale of *beer, ale, and cyder* is permitted by any person obtaining merely an excise licence. But by 3 & 4 Vict. c. 61, s. 1 and 2, an overseer of the parish where the party lives, must certify that he is the real resident, holder, and occupier of the dwelling-house for which he shall apply to be licensed, and that the same is rated to the poor's rate on a rent or annual value of 15*l.* per annum at the least, if situated in London or Westminster, or within the bills of mortality, or within any town, parish, or place, the population of which (accordidg to the last parliamentary census) shall exceed ten thousand, or within one mile (to be measured by the nearest public path) from any polling place used at the last election for any town having the like population, and returning a member of parliament; and if situated within any place, the population of which, according to such last parliamentary census, shall exceed 2500, and not exceed 10,000, or within one mile from any polling place used at the last election for such town, then the party must be rated at the annual value of 1*l.*; and if situate elsewhere, then at the annual value of 8*l.*

By *sect. 3*, when any occupier of a house newly erected, and not yet rated, shall be desirous of taking out a licence before the making of a new rate, the proper officer of excise may grant such licence, on

the certificate of the overseer that the rent or annual value is not less than that at which such house will be rated in one sum to the relief of the poor in the next rate, and certifying also that the applicant has claimed to be rated in respect of such house.

By *sect. 4*, in any extra-parochial or other place where no poor rates are made or collected, the certificate as to the rent or annual value of the house must be signed by two inhabitant householders.

And by *sect. 5*, overseers refusing a certificate, or making a false one, forfeit 20*l*.

By *sect. 8*, on the death of a licensed person, the executors or administrators, or the widow, or children, are authorized to sell beer for the remainder of the term of licence.

By *sect. 18*, nothing is to prevent a person, licensed before the passing of the act, from obtaining a renewed licence whilst he continues the occupier of the same house, notwithstanding it is below the present rent or annual value.

Inscription on board.—By *sect. 6*, the party so licensed must cause to be painted in letters three inches at least in length, in white upon a black ground, or in black upon a white ground, publicly visible and legible, upon a board to be placed and kept over the door of the house, the christian and surname of the party at full length, together with the words “Licensed to sell Beer by retail,” under the penalty of 10*l* (*a*).

Selling without a Licence.—By *sect. 7*, if any person, not duly licensed as the keeper of a common inn, ale house, or victualling house, shall sell beer by retail, without having an excise retail licence, or after the expiration of such licence, or without renewing such licence in the manner directed by the act, or in any house or place not specified in the licence; or if any such person so licensed shall deal in or retail any wine or spirits, the offender incurs a penalty of 20*l*., which (by *sects. 8* and *9*) may be recovered as any other penalty under the excise laws.

Closing house in case of Riot.—By *sect. 11*, any one justice acting for any county where any riot or tumult shall happen, or any two justices where such may be expected to take place, may order every such licensed person to close his house; and every such person who shall keep open his house after any hour at which the justices shall have so ordered it to be closed, shall be deemed to have not maintained good order and rule therein, and to be guilty of an offence against the tenor of his licence.

(a) See 4 & 5 Will. 4, c. 85, s. 18, *post*, p. 99.

Standard Measures.—By *sect. 12*, the *standard measures* are to be used by every person licensed to sell beer, under a penalty not exceeding 40s., with costs, recoverable within thirty days after the commission of the offence before *two justices*.

Disorderly conduct.—By *sect. 13*, every seller of beer, who shall permit any person to be guilty of drunkenness or disorderly conduct in the house licensed, shall forfeit the sums following; and every person who shall in any way transgress or neglect the conditions of such licence, shall be deemed guilty of disorderly conduct; and every person so licensed, who shall permit such disorderly conduct, shall for the first offence forfeit not less than 40s., nor more than 5l.; for the second offence, not less than 5l., nor more than 10l.; and for the third offence, not less than 20l., nor more than 50l.; and the offender may be also disqualified from selling beer for two years, and the house mentioned in his licence may be likewise prohibited from the sale of beer.

Adulterating Beer.—By the same section, if any person so licensed shall knowingly sell any beer, ale, or porter, made otherwise than from malt and hops, or shall mix, or cause to be mixed, any drugs or other pernicious ingredients with any beer sold in his house, or shall fraudulently dilute, or in any way adulterate any such beer, the offender, for the first offence, forfeits not less than 10l., nor more than 20l.; and for the second offence, he shall be adjudged to be disqualified from selling beer for two years, or to forfeit not less than 20l., nor more than 50l.; and if during the two years he shall sell any beer, he incurs a forfeiture of not less than 25l., nor more than 50l. And if any person shall during the term when it shall not be lawful to sell beer on the premises of the offender, sell any beer thereon, knowing that it was not lawful, he incurs a penalty of not less than 10l., nor more than 20l.

Recovery of Penalties.—By *sect. 15*, all penalties, except that for selling beer without a licence, may be recovered, before *two justices* in petty sessions, within three calendar months after the commission of the offence. And, on proof that the offender had been previously convicted within twelve calendar months of one such offence, he shall be adjudged to be guilty of a second offence; and if previously convicted within eighteen calendar months of two separate offences, he shall be adjudged guilty of a third offence.

Appeal.—By *sect. 16*, an appeal is given to the next quarter ses-

sions, unless held within twelve days after the conviction, and in that case to the next subsequent sessions, on the party entering into a recognizance with two sureties to appear and abide the judgment of the court.

Binding over to prosecute.—By *sect. 18*, where no fit person appears to prosecute the charge against a party appealing, the convicting justices may bind over the constable, or other peace officer of the parish or place where the offender's house shall be situate, to carry on all such proceedings; and the justices may order the county treasurer to pay to the constable and the witnesses such sums of money, as to the court shall seem sufficient to reimburse them the expenses of the prosecution.

Liability of Sureties.—By *sect. 19*, in default of payment of any penalty by the convicted party, proceedings may be had against his sureties, after one calendar month from the conviction, in a summary way before the convicting justices; and the penalty may be levied on them by distress.

Penalty on Witnesses.—By *sect. 20*, witnesses summoned to give evidence incur a penalty of not more than 10*l.*, for neglecting to appear, or refusing to give evidence, on conviction of such offence before two justices.

Distress for Penalties.—By *sect. 21*, all penalties not paid within seven days, may be levied by *distress*, in which case the offender, if in custody, shall be forthwith discharged. In default of distress, the offender may be committed for not more than one calendar month, if the penalty is not above 5*l.*; not exceeding three months, if above 5*l.* and not more than 10*l.*; and not exceeding six, if above 10*l.*

Application of Penalties.—By *sect. 22*, the justices may award not more than half of any penalty to the prosecutor, and the remainder to the treasurer of the county towards the county rate.

By *sect. 25*, a general form of conviction is given, which by *s. 27* is not removable by *certiorari*, nor is any warrant of commitment to be void for any formal defect.

Actions.—By *sect. 28*, every action against any justice, constable, or other person, for any thing done under the act, must be commenced within three calendar months after the cause of action shall have arisen, and he may plead the general issue, and give the special matter in evidence.

Regulation as to Beer to be drunk on the Premises.—By 4 & 5 Will. 4, c. 85, the licence granted under the provisions of the former act is not to authorize any person to sell beer or cider to be *drunk on the premises* specified in the licence, unless the same be granted upon a certificate, which (by *sect. 2*) is required to be signed by six inhabitants of the parish or place in which the party intends to sell beer, who are respectively rated to the poor at not less than 6*l.*, or occupying a house rated to that amount, none of whom shall be maltsters, common brewers, or persons licensed to sell spirituous liquors, or beer or cider by retail, nor owners or proprietors of any house so licensed, stating that the person applying for the licence is of good character; at the foot of which certificate one of the overseers shall have certified that such six persons are rated inhabitants. If there are not ten rated inhabitants in the place, then the certificate of the majority of them will be sufficient.

Penalty on Overseer.—By *sect. 3*, if any overseer, after application made to him for that purpose, refuse to certify that the six persons are rated inhabitants (if the fact be so), he shall forfeit not exceeding 5*l.*, on complaint before any justice of the peace, unless he shows reasonable cause for such refusal.

Evading the provisions of the Act.—By *sect. 4*, if any person licensed to sell beer, not to be consumed on the premises, shall employ or permit or suffer any person to take or carry any beer or cider out of or from his house, for the purpose of being sold on his account, or for his benefit or profit drunk or consumed in any other house, or in any tent, shed, or other building of any kind whatsoever belonging to such licensed person, or hired, used, or occupied by him; the person selling the same shall be subject to the like penalties, as if the beer had been actually drunk in any house licensed only for the sale thereof.

Constables to enter Licensed Houses.—By *sect. 7*, all constables and officers of police may enter all houses licensed to sell beer or spirituous liquors to be consumed on the premises; and if any such licensed person shall refuse to admit the officer, he incurs the penalty, for the first offence, of not more than 5*l.*, with costs; to be recovered within twenty days after the offence before *one* justice; and for the second offence, he may be adjudged by *two justices* to be disqualified from selling beer by retail for two years, or any shorter space of time. *

Penalty for False Certificates.—By *sect. 8*, if any person shall in any certificate certify any matter as true, knowing it to be false,

or shall knowingly make use of any forged or false certificate, he is liable, on conviction before *two justices*, to a penalty of 20*l.*; and every licence granted to him shall be void, and he shall be for ever disqualified from obtaining a licence.

Penalty for not producing Licence.—By *sect. 10*, if any complaint is laid before *two justices* against any licensed person, they may require him to produce his licence, under the penalty of 5*l.* for refusing to do so; and such person may be convicted, proceeded against, and dealt with, in all respects as is directed by the former act with regard to persons guilty of a first offence, and the penalty to be applied in the same manner.

Powers of former Act applicable to this.—By *sect. 11*, all the powers, regulations, and provisions of the former act are (except when altered by or repugnant to the provisions of the subsequent act) declared to be applicable to all persons and offences mentioned in such subsequent act. And by *sect. 12*, all the provisions of the former act are to be deemed to be in full force, except when altered by the latter act.

Permitting Wine or Spirits to be drunk (a).—By *sect. 16*, if any licensed person shall permit or suffer any wine or spirits to be brought into his house or premises to be drunk or consumed there, or shall suffer the same to be drunk or consumed there by any person whatsoever, he is liable to a forfeiture of 20*l.*, over and above any excise penalty, to be recovered and applied in the same manner as other penalties under the act.

Selling Beer without Licence.—By *sect. 17*, every person not having a publican's licence, who shall sell any beer or cider by retail *not* to be drunk on the premises where sold, without having an excise retail licence, forfeits 10*l.*; and if the beer or cider so sold is to be drunk on the premises, the penalty is 20*l.*, recoverable like other penalties under the excise laws (*b*).

Inscription on Board.—By *sect. 18*, every person licensed shall, on the board required by the former act to be placed over his door, paint, after the words "licensed to sell beer or cider by retail," the additional words, "not to be drunk on the premises," or "to be drunk on the premises," as the case may be, on pain of forfeiting the penalty imposed by the former act for not having such board over his door.

(a) See 3 & 4 Vict. c. 61, s. 10, *post*,
p. 101.

(b) See 3 & 4 Vict. c. 61, s. 13, *post*,
p. 101.

What a selling by Retail.—By *sect. 19*, every sale of beer, cider, or perry, in a less quantity than four gallons and a half, shall be deemed a selling by retail.

Selling Wine or Spirits(c).—By *sect. 20*, all persons licensed under this or the former act, selling wine or spirits, incur all the penalties imposed by the excise laws for selling wine or spirits without a licence.

Where Certificate not required.—By *sect. 21*, the certificate, as to the character of the person applying for a licence, is not required for any house within London and Westminster, or the bills of mortality, nor within any city or town corporate, nor within the distance of one mile from the place used at the last election as the polling-place of any town returning a member to parliament, provided the population, according to the last parliamentary census, shall exceed 5000; but no licence is to be granted in any of these places, unless the house shall be of the value of 10*l.* per annum.

Service of Summons.—By *sect. 22*, no summons or order issued by any justice shall be deemed to be legally served, unless served by some constable or peace officer.

Forging Certificates.—By 3 & 4 Vict. c. 61, s. 6, any person who shall, for the purpose of obtaining for himself, or enabling any other person to obtain a licence, forge or counterfeit any certificate, or shall produce or make use of any certificate, knowing the same to be forged or counterfeited, or the matters certified therein, or any of them, to be false, shall forfeit 50*l.*; and every licence obtained on such forged or false certificate shall, on the conviction of such person, be void; and every person so convicted shall be disqualified from obtaining any licence.

What persons disqualified.—By *sect. 7*, every person convicted of felony, or of selling spirits without a licence, shall for ever thereafter be disqualified from selling beer and cider by retail; and if any such person shall take out a licence to do so, the same shall be void; and if he sells any beer or cider by retail, he incurs the penalty for so doing without licence; and in the prosecution for the recovery of such penalty, a certificate from the clerk of the peace of any such conviction is declared to be legal evidence thereof.

By *sect. 9*, all persons licensed to retail beer or cider must make entry with the excise.

Penalty for keeping Wines and Spirits.—By *sect. 10*, if any person licensed to retail beer or cider shall receive into or keep or have in his possession in any cellar, room, or place entered for storing, keeping, or retailing beer or cider, any wine, or spirits, or sweets, he forfeits 50*l.*, in addition to all other penalties to be recovered under the excise laws; and all such wine, spirits, and sweets shall be forfeited, and, on conviction, his licence is declared to be void.

Excise Officers may search.—By *sect. 11*, any officer of excise may, at all times during the hours in which any licensed house may be kept open, enter into every place entered for the storing, keeping, or retailing of beer or cider, and make search for and seize all wines, spirits, and sweets found therein, and examine all beer or cider kept therein. And by *sect. 12*, the like search may be made in houses kept open for the sale of beer after the rate of one penny halfpenny, or after a less rate, the quart; and the officers may not only seize all wines, spirits, and sweets, but also all beer which by law the party is not entitled to sell.

Additional penalty on Unlicensed Persons.—By *sect. 13*, if any person not duly licensed shall retail any beer or cider, he is liable, in addition to any excise penalty to which he may thereby become subject, to a penalty of 5*l.*, recoverable in the same manner as any other penalty, not being an excise penalty. But no proceeding for the recovery of this penalty can be commenced, except by and in the name of a constable, or other officer of the peace.

Hours for opening and closing Houses.—By *sect. 15*, no licensed person shall have or keep his house open for the sale of beer or cider, nor shall sell or retail beer or cider, nor shall suffer any beer or cider to be drunk or consumed in or at such house, at any time before the hour of five o'clock in the morning, nor after twelve o'clock at night of any day of the week, in the cities of London (*d*) or Westminster, or within the parliamentary boundaries of any of the boroughs of Marylebone, Finsbury, the Tower Hamlets, Lambeth, or Southwark, nor after eleven o'clock within any parish or place within the bills of mortality, or within any town or place, the population of which (according to the last parliamentary census) shall exceed 2500, or within

(*d*) By 2 & 3 Vict. c. 47, s. 42, keepers of beer houses within the Metropolitan Police District are prohibited from opening them on *Sundays* before one o'clock, and (by *sect. 44*) are liable to the same penal-

ties as publicans, for permitting disorderly conduct in their houses. For the particulars of these enactments, see *ante*, *Althouses*.

one mile (to be measured as aforesaid) from any polling-place used at the last election for any town having the like population, and returning a member to parliament, nor after ten o'clock in the evening elsewhere, nor at any time before one of the clock in the afternoon, nor at any time during which the houses of licensed victuallers are closed on any Sunday, Good Friday, Christmas Day, or any day appointed for a public fast or thanksgiving; under the penalty of 40*s.* for every offence; and every separate sale is to be deemed a separate offence.

Mitigation of Penalties.—By *sect. 16*, any justice may mitigate penalties, provided that it be not less than one-fourth part of the penalty.

Restrictions as to Forfeitures.—By *sect. 17*, no person shall forfeit his licence for a first offence against the tenour or conditions of his licence, except as before provided by the act; and no such forfeiture shall be incurred, unless it shall be expressly adjudged by the convicting justice; and when any justices do so adjudge, they must cause notice in writing to be immediately given to the commissioners of excise within the limits of the chief office of excise, or to the collector of excise out of such limits.

By *sect. 19*, all penalties under the act, where not otherwise directed, are recoverable under the provisions of the former acts.

1. *Conviction (e) on the 1 Will. 4, c. 64, s. 6, and 4 & 5 W. 4, c. 85, s. 18, for not putting up a Descriptive Board.*

Essex, } Be it remembered, that on this — day of —, in the year of our Lord
to wit. } 1842, A. B., of —, was duly convicted before us, C. D. and E. F., two of
her Majesty's justices of the peace, in petty sessions for the district of —, in the
county of Essex; for that the said A. B., being licensed to sell beer, ale, and porter,
by retail, in the dwelling-house of the said A. B., in — street, in the parish of —,
in the county aforesaid, and in the premises thereunto belonging, in order that it might
be consumed in the said dwelling-house and premises, under the provisions of the sta-
tutes in such case made and provided, did, on the — day of —, whilst he con-
tinued so licensed as aforesaid, neglect to preserve or keep up over the door of his said
house and premises a proper board, having painted thereon, in letters three inches in
length, in white upon a black ground, or in black upon a white ground, publicly
visible and legible, the christian and surname of him the said A. B., together with the
words "Licensed to sell beer by retail, to be drunk on the premises," contrary to the
form of the statutes in such case made and provided; whereby the said A. B. has for-
feited the sum of 10*l.*, this being adjudged to be his first offence against the pro-
visions of an act to permit the general sale of beer and cider by retail in England,
besides the costs of this conviction, which we, the said justices, do hereby assess at the
sum of —, pursuant to the statute in such case made and provided. Given under
our hands and seals, the day and year first above written.

(e) This form of conviction is given by 1 Will. 4, c. 64, s. 25.

2. *The like, under the 3 & 4 Vict. c. 61, s. 13, for retailing Beer without a Licence, where the Beer was to be consumed on the Premises. (f)*

Essex, } Be it remembered, &c. [as in the former precedent]; for that the said A. B.,
to wit. } not being duly licensed to sell beer, cider, or perry, did, on the — day of
—, in a certain house and premises situate in — street, in the parish of —,
in the county of Essex, sell to a certain person unknown a certain quantity of beer,
that is to say, one quart of ale, by retail, to be drunk and consumed in and upon
the said house and premises, the said A. B. not then having an excise retail licence
in force, authorizing him so to do, contrary to the forms of the statute in such case
made and provided, whereby the said A. B. hath forfeited the sum of £5, this being
adjudged, &c. [conclude as before.]

3. *The like, under 4 & 5 Will. 4, c. 85, s. 16, for suffering Wine or Spirits to be drunk on the Premises.*

Essex, } Be it remembered [as before], that the said A. B., being licensed to sell
to wit. } beer, ale, and porter, by retail, in the dwelling-house of him the said A. B.,
in — street, in the parish of —, in the county aforesaid, and in the premises
thereunto belonging, in order that it might be consumed in the said dwelling-house
and premises, under the provisions of the statutes in such case made and provided,
did, on the — day of —, whilst he continued so licensed as aforesaid, suffer cer-
tain wine and spirits, that is to say, one bottle of wine, and one pint of rum, to be
drunk and consumed therein by one C. D. and certain other persons unknown, con-
trary to the form of the statutes in that case made and provided, whereby the said A. B.
hath forfeited the sum of £20, this day adjudged, &c. [conclude as before.]

4. *The like, on 1 Will. 4, c. 64, s. 12, for selling Beer, &c. otherwise than in standard Measures.*

Essex, } Be it remembered, &c. [as before], that within thirty days now last past,
to wit. } to wit, on &c. at &c., the said A. B., being a person licensed to sell beer by
retail, did sell and dispose of to one C. D., by retail, a certain quantity of beer, being
not less than half a pint, in a certain measure and vessel purporting to be a pint mea-
sure, but which said measure was not sized according to the standard, contrary to the
form of the statute in such case made and provided, whereby the said illegal measure
hath become forfeited, and the said A. B. hath also forfeited the sum of 40s., this being
adjudged, &c. [conclude as before.]

5. *The like, on 1 Will. 4, c. 64, s. 13, for permitting Drunkenness or disorderly conduct in a licensed House.*

Essex, } Be it remembered, &c. [as before], that the said A. B., being a seller of
to wit. } beer by retail, and having a licence for that purpose under the provisions of
the statute in such case made and provided, on the — day of —, at the parish of
—, in the county aforesaid, did permit one C. D., and certain other persons unknown,
to be guilty of drunkenness and disorderly conduct in the house of him the said A. B.
there situate, being the house and premises mentioned in such licence, and wherein the

(f) The proceedings to recover this penalty must be conducted in the name of a constable, see *ante*, p. 101.

said A. B. was so licensed to sell beer as aforesaid, contrary to the form of the statute in such case made and provided, whereby the said A. B. hath forfeited for his said offence the sum of 5*l.*, this being adjudged, &c. [*as before*,]

6. *The like, for a Third Offence of the same Description.*

[*Proceed as in the last precedent, to the words "contrary to the form of the statute in such case made and provided,"*] whereby the said A. B. hath forfeited for his said offence not less than 20*l.*, nor more than 50*l.*, this being adjudged to be his third offence against the provisions of an act to permit the general sale of beer and cider by retail in England: We, the said justices, do therefore hereby adjudge the said A. B. to pay the said sum of 20*l.*; And we do also hereby further adjudge that the said A. B. shall be disqualified from selling beer by retail for the space of two years next ensuing this conviction; and also that no beer shall be sold by retail by any person in the said house or premises mentioned in the said licence of the said A. B. Given under our hands and seals, the day and year first above written.

7. *The like, on 1 Will. 4, c. 64, s. 13, for selling adulterated Beer.*

Essex, } Be it remembered, &c. [*as before*], that the said A. B., being a person
to wit, } licensed to sell beer by retail, did, on the — day of —, at —, in the
county aforesaid, knowingly sell to one C. D. a certain quantity of beer, to wit, one
pint of ale made otherwise than from malt and hops, contrary to the form of the statute
in such case made and provided, whereby the said A. B. hath forfeited for his said
offence the sum of 20*l.*, this being adjudged to be his first offence, &c. [*conclude as in
Form No. 1.*]

8. *The like, on 3 & 4 Vict. c. 61, s. 15, for suffering Beer to be drunk in his House
after Eleven o'clock in the Evening, within the Bills of Mortality (g).*

Essex, } Be it remembered, &c. [*as before*], that the said A. B., being a person
to wit, } licensed to sell beer by retail under the provisions of an act to permit the
general sale of beer and cider by retail in England, did, on the — day of —, at
—, suffer and permit beer to be drunk and consumed by certain persons unknown,
in the house of him the said A. B., situate at —, aforesaid, being a place within the
bills of mortality, at a certain time after the hour of eleven of the clock in the evening
of the day and year aforesaid, to wit, at the hour of twelve in that evening, contrary to
the form of the statute in such case made and provided, whereby the said A. B. has forfeited
for his said offence the sum of 40*s.* this being adjudged, &c. [*as in Form No. 1.*]

9. *The like, for selling Beer before One o'clock in the Afternoon on a Sunday.*

Essex, } Be it remembered, &c. [*as before*], that the said A. B., being a person
to wit, } licensed to sell beer by retail under the provisions of an act to permit the
general sale of beer and cider by retail in England, did, on the — day of —, that
day being a Sunday, at —, in the county aforesaid, sell and retail beer, to wit, one
pint of ale, to one C. D., at a certain time between the hour of one of the clock in
the afternoon, to wit, at the hour of eleven of the clock in the forenoon of that day,
contrary to the form of the statute in such case made and provided, whereby, &c. [*con-
clude as in the last precedent.*]

Beggars—See **Vagrants**.

Bent.

BY 15 Geo. 2, c. 33, s. 6, if any person, without the consent of the owner, shall cut, pull up, or carry away any *starr* or *bent* planted or set on the sand hills on the north-west coast of England, and especially in the county of Lancaster; *Penalty*, 20s., half to the informer, and half to the overseer, on conviction before *one* justice, on the oath of *one* witness, leviable by distress; in default of which, *commitment for three months to the house of correction, to hard labour*; and for a second offence, *commitment for one year, and to be whipped*.

Bigamy.

BY 9 Geo. 4, c. 31, s. 22, if any person, being married, shall marry any other person during the life of the former husband or wife, whether the second marriage shall have taken place in England, or elsewhere;—*Felony*; *Transportation for seven years*; or *imprisonment, with or without hard labour, not exceeding two years*.

This offence may be dealt with and punished in the county where the offender shall be apprehended, the same as if the offence had been actually committed there.

Exceptions.—The statute is declared not to extend, 1st, to any second marriage contracted out of England by any other than a British subject; 2nd, to any person, whose husband or wife shall have been continually absent for seven years, and shall not have been known by such person to have been living within that time; 3rd, to any person, who, at the time of the second marriage, shall have been divorced from the bond of the first marriage; 4th, to any person whose former marriage shall have been declared void by the sentence of any court of competent jurisdiction.

And see further, 1 Deac. Crim. L. 140.

Birds.

FOR stealing birds, not being the subject of larceny at common law, see **Dog-stealing**.

Birth of Children, Concealment of.

BY 9 Geo. 4, c. 31, s. 14, if any woman shall be delivered of a child and shall, by secret burying, or otherwise disposing of its dead body, endeavour to conceal its birth;—*Misdemeanour; Imprisonment, with or without hard labour, not exceeding two years.*

—◆—
Bleaching Grounds, Stealing from—See Manufactories.

—◆—
Boats—See Watermen.

Boatmen.

FOR the punishment of frauds committed by boatmen in embezzling ships' stores, see **Ships.**

—◆—
Bodies, Dead—See Dead Bodies.

—◆—
Bodily Harm—See Maiming.

Books.

BY 7 Ann. c. 14, for the better preservation of parish libraries, it is enacted by sect. 10, that if any book be taken or otherwise lost out of a parish library, any justice may grant his warrant to search for the same; and if it be found, he may order it to be restored to the library.

Bread.

BY 6 & 7 Will. 4, c. 37, which extends to all parts of Great Britain, —except *London*, and places within the *weekly bills of mortality and ten miles of the Royal Exchange*, in respect of which similar provisions are made by the 3 Geo. 4, c. 106,—the assize of bread is wholly abolished.

Ingredients.—By sect. 2, bread is only to be made of flour or meal of *wheat, barley, rye, oats, buck-wheat, Indian corn, peas, beans, rice, or potatoes*, and with any common salt, pure water, eggs, milk, barm, leaven, potato, or other yeast, and mixed in such pro-

portions as shall be thought fit. And by *sect. 3*, it may be made of any weight or size.

To be sold by Weight.—By *sect. 4*, if any baker or other person shall sell bread in any other manner than by *weight*, he incurs a penalty not exceeding 40s. But this is not to extend to French or fancy bread, or rolls.

By *sect. 5*, bakers and sellers of bread must use *avoirdupois weight* of sixteen ounces to the pound, according to the standard in the exchequer. *Penalty* for default, *not exceeding 5l., nor less than 40s.*

By *sect. 6*, they must cause to be fixed in some conspicuous part of their shops, on or near the counter, a *beam and scales, with proper weights, or other sufficient balance*, in order that all bread sold by them may be weighed in the presence of the purchaser;—*Penalty* for default, or for incorrect scales, or false weights, *not exceeding 5l.*

By *sect. 7*, bakers or their servants *carrying out bread for sale in carts, &c.*, must also be provided with a correct beam and scales;—*Penalty* for default, or for refusal to weigh, *not exceeding 5l.*

Adulterating Bread, &c.—By *sect. 8*, no person, who shall make bread for sale, shall use any mixture or ingredient except those before mentioned;—*Penalty, not exceeding 10l., nor less than 5l., on oath of one witness; or in default, committal to any prison, not exceeding six calendar months, with or without hard labour; and the magistrate may cause the offender's name to be published in some newspaper, the expense of which is to be defrayed out of the penalty.*

By *sect. 9*, if any person shall put into any *corn, meal, or flour* manufactured for sale, any ingredient or mixture not being the real and genuine produce of the corn or grain which shall be ground; or if any person shall knowingly sell, or offer or expose for sale, either separately or mixed, any meal or flour of one sort of corn or grain, as the meal or flour of any other sort, or any ingredient whatsoever, mixed with such meal or flour;—*Penalty, not exceeding 20l., nor less than 5l., on conviction before one justice, on oath of one witness.*

By *sect. 10*, every person who shall make for sale, or sell or expose for sale, any bread made *wholly or partially* of *peas, or beans, or potatoes*, or of any sort of corn or grain *other than wheat*, shall cause such bread to be marked with a large roman M;—*Penalty, on default, for every pound weight, not exceeding 10s., on conviction*

before one justice. But this provision is not to extend to bread made of wheat only, in the making of which potato yeast shall be used.

Searching premises of Bakers and Millers.—By sect. 11, any justice, and also any peace officer authorized by warrant under the hand and seal of a justice, at seasonable times in the daytime, may search the premises of any person who shall grind grain, or dress or bolt meal or flour, or make bread for reward or sale; and if, on such search, it shall appear that any meal, flour, dough, or bread shall have been *adulterated* by the person in whose possession it shall then be, or *any mixture or ingredient shall be found*, which shall seem to have been deposited there in order to be used in the adulteration of meal, flour, or bread, then the bread and the ingredient may be seized and disposed of, as the justice shall think proper.

By sect. 12, every miller, mealman, or baker, in whose premises any ingredient or mixture shall be found, which shall, after due examination, be adjudged by any justice to have been deposited there for the purpose of being used in adulterating meal, flour, or bread is liable to a *penalty not exceeding 10l., nor less than 40s., for the first offence; 5l. for the second offence; and 10l. for every subsequent offence*, on conviction before *one justice*, on the oath of *one witness*; in default of payment, *commitment to any prison not exceeding six calendar months, with or without hard labour, and the name of the offender to be published in some newspaper, as before.*

By sect. 13, if any person shall *wilfully obstruct or hinder any such search or seizure* as before mentioned, or shall wilfully oppose or resist the same; *Penalty, not exceeding 10l., on conviction before one justice, on the oath of one witness.*

Offences by Bakers' Servants.—By the *same section*, if any person making bread for sale shall make complaint to any justice, and make appear to him by the oath of one witness, that any offence which he shall have been charged with shall have been occasioned by or through the wilful act, neglect, or default of any servant employed by him, the justice may then issue his warrant for bringing any such servant before him; and, on proof of the complaint upon oath to the satisfaction of the justice, he may order a *reasonable sum to be paid by the servant to his master*, by way of recompense to him for the money he shall have paid by reason of the wilful act, neglect, or default of the servant; and, *in default of payment, may commit him to any prison, to hard labour, for not more than one calendar month, nor less than ten days.*

Baking on Sunday.—By sect. 14, no baker shall on the Lord's day, or on any part thereof, make or bake any bread, rolls, or cakes of any sort or kind, or shall, after the hour of half-past one in the afternoon, sell or expose for sale, or permit to be sold or exposed for sale, any bread, rolls, or cakes; or bake or deliver any meat, pudding, pie, tart, or victuals, or in any other manner exercise the trade or calling of a baker, or be engaged or employed in the business or occupation thereof, except so far as may be necessary in setting and superintending the sponge to prepare the bread or dough for the following day's baking; *Penalty*, on conviction before one justice within six days from the commission of the offence (h), upon the oath of one witness,—for a first offence, 10s.; for a second offence, 20s.; and for a third, 40s., besides costs. The justice may allow any part of the penalty to the prosecutor, for loss of time, not exceeding 3s. per diem, and the remainder to be paid to one of the overseers, to the use of the county rate. No inhabitant of the county to be an incompetent witness. In default of payment of the penalty, distress; in default of which, commitment, with or without hard labour, for a first offence, for seven days; for a second offence, for fourteen days; and for a third, for one month.

Millers, &c. acting as Justices.—By sect. 15, no miller, mealman, or baker shall act as a justice under the act; *Penalty*, 100l., to be recovered by action of debt in any of the courts at Westminster.

Opposing execution of Act.—By sect. 16, if any person shall resist or make forcible opposition against any person employed in the execution of the act; *Penalty* not exceeding 10l.

Recovery and application of Penalties.—By sect. 17, all penalties, where not otherwise directed, upon proof and conviction of the offender before one justice, on the oath of one witness, may be levied, together with the costs, by distress; and the offender, unless he gives sufficient security, may be detained in custody, until the return of the warrant of distress. In default of distress, commitment to the common gaol or house of correction for not more than one calendar month, with or without hard labour; the penalties to be paid, one-half to the informer, and the other to one of the overseers, for the use of the county rate; and no inhabitant of the county to be an incompetent witness.

Summons, Information, and Conviction.—By sects. 18, 19, and

(h) But see post, sect. 31.

23, every summons, information, and conviction are required to be in the form given by the act.

By *sect. 20*, the *information* must be laid before an acting magistrate of the district where the offence is committed.

Summoning Witnesses, &c.]—By *sect. 21*, the magistrate has the power to *summon witnesses*, and on neglect or refusal to appear, to issue a warrant against them, and in case of refusal to be examined, the justice may commit them for not more than fourteen days, with or without hard labour.

Defects of Form, &c.]—By *sect. 24*, no order, judgment, or conviction shall be quashed for want of form, or be removable by *certiorari*; nor shall any person be a trespasser *ab initio*, by reason of the irregularity of any distress, or be liable to be sued, if he tenders sufficient amends.

Appeal.]—By *sect. 25*, an *appeal* is given to the next quarter sessions, unless (by *sect. 26*.) the conviction is within six days of those sessions being held, in which case it may be to the next following sessions.

Limitation of Actions.]—By *sect. 29*, the *right of action* against any magistrate or peace officer, for any thing done in execution of the act, is limited to *six calendar months* after the fact committed; and no action can be commenced against any peace officer, until seven days after notice in writing given to him of the cause of action; within which period the officer may tender amends.

By *sect. 30*, in actions brought against any other persons than magistrates or peace officers, the general issue may be pleaded and the special matter given in evidence, and if a verdict is given against the plaintiff, the defendant may recover treble costs.

Limitation of Prosecutions.]—By *sect. 31*, no person can be convicted of any offence under the act, *unless the complaint is made within forty-eight hours after the offence is committed (i)*, or within such reasonable time as to the justice shall seem fit, except in cases of *perjury*.

By *sect. 32*, the *application of the penalties* imposed by the act is again directed in the same manner, as had been previously provided for by the 17th section.

Regulations as to the Metropolis.]—By 3 Geo. 4, c. 106, the

(i) But see ante, sect. 14.

same regulations, provisions, and penalties are enacted, as to the making and sale of bread, and for preventing the adulteration of meal, flour, and bread in the city of London, and within the weekly bills of mortality, and ten miles of the Royal Exchange, as are contained in the above act of the 6 & 7 Will. 4, c. 37; which professes indeed to take them *verbatim* from the *London* act.

1. *Information (k) against a Baker, under the 6 & 7 Will. 4, c. 37, s. 8, for adulterating Bread.*

County of Kent, } Be it remembered, that on the — day of —, at —, in
to wit. } the said county, A. B. of —, in the same county, yeoman, informeth me, J. P., esq., one of her Majesty's justices of the peace in and for the said county, that C. D. of —, in the said county, being a baker and person making bread for sale out of the city of London and the liberties thereof, and beyond the weekly bills of mortality, and ten miles of the Royal Exchange, did on the — day of —, at — aforesaid, in the making of bread for sale beyond the limits aforesaid, use a certain mixture or ingredient in the making of such bread, other than the flour or meal of wheat, barley, rye, oats, buck-wheat, Indian corn, peas, beans, rice, or potatoes, mixed with common salt, pure water, eggs, milk, barm, leaven, potato, or other yeast, contrary to the statute made in the seventh year of the reign of King William the Fourth, intituled "An Act to repeal the several Acts now in force relating to Bread to be sold out of the City of London and the Liberties thereof, and beyond the Weekly Bills of Mortality, and Ten Miles of the Royal Exchange, and to provide other Regulations for the making and sale of Bread, and for preventing the Adulteration of Meal, Flour, and Bread beyond the limits aforesaid;" which hath imposed a forfeiture not exceeding 10*l.*, nor less than 5*l.*, for the said offence. Taken this — day of —, 1842, before me

J. P.

2. *Summons (l) against a Baker, under 6 & 7 Will. 4, c. 37, s. 6, for using false Scales or Weights.*

Kent, }
to wit. } To A. B. of —, in the county of Kent.

Whereas complaint and information hath been made before me, J. P., esq., one of her Majesty's justices of the peace for the county aforesaid, by E. F. of —, for that you the said A. B., being a baker and seller of bread, out of the city of London and the liberties thereof, and beyond the weekly bills of mortality, and ten miles of the Royal Exchange, did on the — day of —, at —, in the said county, use a certain false weight, not being of the weight it purported to be, according to the standard in the Exchequer [or "certain false scales,"] contrary to the statute in such case made and provided; These are therefore to require you personally to appear before me, or such other justice as shall be then and there present, at —, in the said county, on the — day of — next, at the hour of — in the — noon, to answer to the said complaint and information made by the said E. F., who is likewise directed to be then and there present to make good the same. Given under my hand this — day of —, 1842.

(k) This form is given by the 19th section of the statute.

(l) This form is given by the 18th section of the act.

3. *Conviction (m) of a Baker under the 6 & 7 Will. 4, c. 37, s. 12, for having on his premises ingredients for adulterating Bread.*

Kent, } Be it remembered, that on the — day of —, in the fifth year of the
to wit. } reign of our Sovereign Lady Victoria, by the grace of God of the united
kingdom of Great Britain and Ireland Queen, defender of the faith, A. B. is convicted
before me, J. P., esq., one of her Majesty's justices of the peace for the said county.
For that he the said A. B., being a baker out of the city of London and the liberties
thereof, and beyond the weekly bills of mortality, and ten miles of the Royal Ex-
change, on the — day of —, at —, in the said county, had in his bakehouse
there situate, a large quantity, to wit, six bushels of bone-dust, which has, after due
examination, been adjudged by me the said justice to have been deposited there for the
purpose of being used in adulterating bread, contrary to the statute in such case made
and provided; wherefore I the said justice do adjudge the said A. B. to pay and forfeit
for his said offence the sum of 10*l.*, this being adjudged to be his first offence
against the provisions of the statute made in the seventh year of the reign of King Wil-
liam the Fourth, to prevent the adulteration of bread. Given under my hand and
seal the day and year first above written.

Brewers.

BREWERS are subject to various heavy penalties for an infringement of the regulations of the excise laws; but by 7 & 8 Geo. 4, c. 53, s. 61, no proceedings to recover these penalties can be instituted, except by order of the commissioners of excise, and in the name and at the suit of an excise officer, or in the name of the attorney or solicitor general. Some very salutary provisions, however, respecting brewers, ought, for the protection of the community, to be more generally known.

Diluting Beer.—By 42 Geo. 3, c. 38, s. 12, if any common brewer shall, after the guage shall have been taken, mix any strong beer with any table beer, or with water, he is liable to a penalty of 200*l.*

Mixing other ingredients than Malt and Hops.—By sect. 20, after reciting that many persons, under pretence of recovering stale beer, or making or preparing beer finings or colouring for beer, or under other pretences, have prepared from divers ingredients injurious to the health of his Majesty's subjects, liquor to resemble beer or ale brewed entirely from malt and hops, or to be mixed with beer or ale so brewed, to the great injury of his Majesty's subjects, of the fair trader, and of his Majesty's revenue, it is enacted, that no person shall mix, fabricate, or prepare, or suffer to be mixed, &c. from *beer-grounds*,

(m) This form of conviction is given by the 23d section of the act.

stale beer, sugar, water, distiller's spent wash, sugar molasses, vitriol, quassia, cocculus indiæ, grains of paradise, guinea pepper, opium, or any other material whatever (except malt and hops) any liquor to imitate, resemble, or to be mixed with or used as beer or ale brewed from malt and hops; nor shall sell or dispose of, or cause to be sold, &c. to any brewer of, dealer in, seller or retailer of beer or ale, or to any other person whatsoever, any liquor so mixed or prepared, *on pain of 200l. for every offence.* All liquor so mixed or prepared, and also all beer-grounds, stale beer, &c., other than malt and hops, in the custody or possession of such person, together with every copper, cooler, back, tun, vat, or other vessel or utensil whatsoever, in which any such liquor or material shall be contained, or which shall have been used in the mixing, preparing, or keeping any such liquor, shall be forfeited, and may be seized by any officer of excise.

Receiving the same into his possession.—By *sect. 21*, no brewer, or dealer in, or seller of, beer or ale, shall receive into his custody or possession any stale beer, &c., or any liquor compounded or prepared as aforesaid, on pain of forfeiting 100l. But by *sect. 22*, this penalty is not to extend to a brewer receiving any stale beer returned to him from a customer.

Right of Search, &c.—By *sect. 23*, every excise officer may, whensoever it seems to him expedient, take samples of any liquor which he shall suspect to be liquor so mixed or prepared as aforesaid to resemble, or be mixed with or used as beer or ale brewed from malt and hops, such sample not exceeding three gallons at any one time, on paying after the rate of 1s. 6d. by the gallon. And by *sect. 24*, if any excise officer shall have cause to suspect that any person does in any place mix or prepare from any such ingredients any such liquor as above mentioned, or that such liquor has been disposed of to any person, and that the same is deposited in any place whatsoever, then, if such place be within the limits of the chief office of excise in London, upon oath made by the officer before two of the commissioners, or if in any other part of Great Britain upon oath before one justice, setting forth the ground of his suspicion, the commissioners, or the justice, may by special warrant under hand and seal, empower the officer by day or night, but if in the night then in the presence of a constable or peace officer, to enter into every such place, and seize as forfeited all such liquor there found, and every other material or ingredient whatsoever, other than malt and hops, and every copper, &c. and other vessel and utensil which he shall

there find, in which any such liquor or ingredient shall be contained, or which shall have been made use of in the mixing, pressing, or keeping any such liquor; and the person, in whose custody or possession the same respectively shall be found, shall forfeit 100*l*.

Onus of Proof.—By *sect. 25*, if any question thereof shall arise, the proof, of such liquor not being liquor mixed or prepared from other ingredients than malt and hops, shall lie on the owner or claimer thereof.

Having in possession any improper preparation or ingredient.—By 56 Geo. 3, c. 58, s. 2, no brewer or dealer in, or retailer of, beer, shall receive or take into, or have in his custody or possession, or make, or use, or mix with, or put into any worts or beer, any liquor, extract, calx, or other material or preparation, for the purpose of darkening the colour of worts or beer, or any liquor, extract, calx, or other material or preparation, such as has been heretofore, or as shall hereafter be made use of, for or in the darkening of the colour of worts or beer, other than brown malt ground or unground, as commonly used in brewing; or shall receive or take into or have in his, her, or their custody or possession, or use, or mix with, or put into any worts or beer, any *molasses, honey, liquorice, vitriol, quassia, cocculus indiae, grains of paradise, guinea pepper, or opium*, or any extract or preparation of any of these articles, or any article or preparation whatsoever for or as a substitute for malt or hops, under the penalty of forfeiting all such ingredients, and also the said worts and beer, together with the casks, vessels, or other packages containing the same, which may be seized by any officer of excise; and he also incurs the further penalty of 200*l*.

Penalty on Druggists selling such Colouring to any Brewer.—

By *sect. 3*, no druggist, or vendor of, or dealer in drugs, or chemist, or other person whatsoever, shall sell, send, or deliver, or cause, procure, permit, or suffer to be sold, sent, or delivered to any licensed brewer of, or dealer in, or retailer of, beer, knowing him to be so licensed, or to be reputed to be so licensed, or to any other person for or on account of, or in trust for, or for the use of any such brewer, dealer, or retailer, any liquor called or known by the name or description of or sold as colouring, from whatever materials the same may have been made, or any other material or preparation other than unground brown malt, for the purpose of darkening the colour of worts or beer, or any liquor or preparation such as has been heretofore, or shall hereafter, be made use of for or in the darkening of the colour of worts or beer, or any *molasses, honey, li-*

quorice, vitriol, quassia, cocculus indiæ, grains of paradise, guinea pepper, or opium, or any article or preparation to be used in worts or beer, for or as a substitute for malt or hops respectively, under the penalty of forfeiting all such colouring, preparation, and ingredients, which may be seized by any excise officer ; the offender also incurs the further penalty of 500*l*.

Bricks and Tiles.

BY 17 Edw. 4, c. 4, persons using the occupation of making tiles, must make them of a certain length, breadth, and thickness. If any person shall set to sale any tile otherwise made, the justices of the peace, *and every of them*, may hear and determine the offence, and assess upon the offender no less fine than for every 1000 plain tiles 5*s.*, for every 100 roof tiles 6*s.* 8*d.*, and for every 100 corner or gutter tiles 2*s.*

The justices may appoint searchers, who for neglect of duty forfeit 10*s.* ; which offence may also be inquired of by the justices in the same manner as the offences of tile makers.

By 17 Geo. 3, c. 42, s. 1, bricks made for sale must be not less than eight and a-half inches long, two and a-half inches thick, and four inches wide; and pantiles not less than thirteen and a-half inches long, nine and a-half inches wide, and half an inch thick.

By *sect. 2*, the *penalty* for infringing this regulation is 20*s.* for every 1000 bricks, and 10*s.* for every 1000 pantiles, and so on in proportion for a greater or less number ; which, by *sect. 5*, may be recoverable by distress, on conviction before *one justice*, on the oath of *one witness* ; one half of the penalty to be paid to the informer, and one half to the poor of the parish ; on default of distress, commitment to the common gaol or house of correction for not more than two calendar months.

By *sect. 6*, the following *form of conviction* is given :

Be it remembered, that on this — day of —, in the year of our Lord —, A.B. is convicted before me, C. D., one of his Majesty's justices of the peace for the — of —, [*specifying the offence, and the time and place when and where the same was committed, as the case shall be.*] Given under my hand and seal the day and year aforesaid.

The information must be laid *within one calendar month* after the sale or delivery of the bricks or tiles.

By *sect. 7*, an appeal is given to the sessions within four calendar months, giving twenty-one days' notice, and within eight days after the notice entering into a recognizance, with two sureties, to try the

appeal; and no order is to be quashed for want of form, or be removable by *certiorari*.

By 2 & 3 Vict. c. 24, the former excise duties and drawbacks of excise on bricks and tiles are repealed, and other duties and drawbacks granted, and the laws for collecting and paying them are consolidated and amended.

—◆— Bridges.

DESTROYING them.—By the General Turnpike Act, 3 Geo. 4, c. 126, s. 121, if any person shall wilfully *pull down, or damage, any bridge* made by the trustees or commissioners of any turnpike road, or repaired or repairable by them; *Penalty*, not exceeding 40s., besides the damages occasioned thereby; recoverable (by *sect. 141*) before *one* justice, on oath of *one* witness. In default of payment, *distress*, and power of commitment till return of distress, unless the offender gives security for his appearance at the return, which must not be more than seven days from the time of taking such security. If no sufficient distress, *commitment* to the common gaol or house of correction *not exceeding three calendar months*. Half the penalty to the informer, and the other to the treasurer of the trustees, for the purposes of the trust. Penalty may be mitigated to one-third, *sect. 142*. No *certiorari*, *sect. 145*.

By the General Highway Act, 5 & 6 Will. 4, c. 50, s. 72, if any person shall *break, damage, or throw down, the stones, bricks, or wood fixed upon the parapets or battlements of bridges*, or otherwise injure or deface the same; *Penalty*, not exceeding 40s., over and above the damages occasioned thereby, recoverable (by *sect. 103*) on conviction before *two justices*, on the oath of *one* witness, by *distress*; with power to detain the offender until the return of the warrant of distress, unless he gives security for his appearance on the return, which must not be later than seven days from the time of taking such security. In default of goods, warrant of distress need not be issued; but commitment, as for want of distress, to the common gaol or house of correction for not more than three calendar months. Half the penalty to the informer, and half to the surveyor of the parish for the repair of the highway; but if the surveyor be the informer, then the whole to go towards such repair. Appeal by *sect. 105*, but no *certiorari*, *sect. 107*.

But by 7 & 8 Geo. 4, c. 30, s. 13, if any person shall *unlawfully and maliciously pull down, or in any wise destroy, any public bridge*,

or *do any injury, with intent*, and so as thereby to render such bridge, or any part thereof, *dangerous or impassable; Felony, Transportation for life, or not less than seven years; or imprisonment for not more than four years, with or without whipping.*

When immediate Repairs may be ordered.—By 52 Geo. 3, c. 110, s. 1, the justices at the Easter quarter sessions (or by *sect. 3*, at any sessions before the Easter sessions) may appoint annually two or more justices for any division, near which any county bridge is situate, to superintend the same, and whenever it shall appear on their own inspection to be necessary, for the purpose of preventing the further decay and injury of the same, to order any immediate repairs or amendments to be done to the same; and such justices are empowered, by a written order signed by their hands, to order such repairs to be done by such person as to them shall seem fit; provided that in no case the sum to be expended shall exceed 20*l.* The appointments of such justices are to remain in force until one week after the Easter sessions. And in case of the death or removal, or refusal to act of any justice, the sessions may, at any other of the four quarterly sessions, appoint any other justice in his room.

By *sect. 2*, the quarter sessions may order the payment of these repairs, not exceeding the amount of 10*l.* (*k*), out of the county rate, provided a certificate be returned to the sessions signed by two of the justices who shall have ordered such repairs, stating the nature of the repairs, the defects which they had so ordered to be repaired, and their reason for ordering such repairs.

By 55 Geo. 3, c. 143, s. 1, the surveyor of county bridges, or any other person employed under contract for the rebuilding or repairing of any county bridge, is empowered, with the consent, and by the order of *two justices*, to search for, work, dig, get, and carry away any stone, in, from, or out of any quarry within the county to which such bridge may belong, except out of any quarry within a garden, yard, avenue to a house, lawn, park, paddock, or inclosed plantation, or which may have ornamental timber trees growing thereon, unless with the consent of the owner of the quarry, provided such quarry shall have been worked within the last three years. The surveyor is to make satisfaction for the stone, and for the damage done to the quarry; and in case the parties cannot agree, or the owner or occu-

(*k*) There appears a strange inconsistency between these two sections; the first empowering the justices to order repairs to the amount of 20*l.*, and the second only authorizing the sessions to pay 10*l.* for such repairs.

pier shall refuse to treat, then the sessions may inquire into the value by a jury.

By *sect. 4*, an appeal is given, within three months after the cause of complaint, to the sessions, upon giving fourteen days' notice in writing to the party against whom such complaint is made, and within three days after such notice entering into the usual recognizance.

By 4 & 5 Vict. c. 49, new provisions are made for repairing, improving, and rebuilding county bridges; but no jurisdiction is given to a magistrate out of sessions.

1. *Order of two Justices to repair a County Bridge, under 52 Geo. 3, c. 110, s. 1.*

County of —, }
to wit. } To —, of the parish of —, in the said county.

We, — and —, esquires, two of her Majesty's justices of the peace in and for the said county, duly appointed, in pursuance of the statute in that case made and provided, to superintend the county bridges, ramparts, banks, cops, and other works appertaining to the same, and the roads over the same, and so much of the roads at the ends thereof as by law is to be repaired at the expense of the said county, within the division or hundred of —, in the said county, having on this day inspected the county bridge over the river, situate in the parish of —, in the said county, and within the said division or hundred; and it appearing to us, on our own inspection thereof, to be necessary, for the purpose of preventing the further decay and injury of the same, to order the immediate repairs and amendments to be done to the same, as in the schedule of particulars by you prepared and signed, and hereto annexed: Now therefore, we, the said justices, do hereby order and direct you, immediately to repair and amend the said county bridge, according to the said schedule of particulars by you prepared and signed, and hereto annexed; provided that the sum to be expended in such repairs shall not exceed the sum of 20*l*. Given under our hands, this — day of —, 1842.

2. *Certificate to be returned to the Sessions, in pursuance of the above Order.*

County of —, }
to wit. } To the justices of the peace at the general quarter sessions, to be holden at —, in the said county, the — day of —, 1842.

We, — and —, esquires, two of her Majesty's justices of the peace in and for the said county, duly appointed (in pursuance of the statute in that case made and provided) to superintend the county bridges, ramparts, banks, cops, and other works appertaining to the same, and the roads over the same, and so much of the roads at the ends thereof as by law is to be repaired at the expense of the said county, within the division or hundred of —, in the said county, do hereby certify to the said court of quarter sessions, that on the — day of — last, we did inspect the county bridge over the river, situate in the parish of —, in the said county, and within the division aforesaid; and it having appeared unto us, on our own inspection thereof, that one of the arches of the said bridge was giving way, and that it was necessary, for the purpose of preventing the further decay and injury of the same, to order the immediate repairs and amendments to be done to the same as follows, viz. —: Therefore we, the said

justices, did, on the said — day of —, make our order in writing, signed with our respective hands, and did thereby order and direct —, of the parish of —, in the said county of —, immediately to make the said repairs and amendments, provided that the sum to be expended in such repairs should not exceed the sum of 20*l*. And we the said justices do hereby further certify, that the said repairs so directed to be made as aforesaid have been made accordingly by the said —, and that the reasonable price and charges, payable to the said — for the same, amount to the sum of £—, as per account hereto annexed, and verified on the oath of the said —. Given under our hands, this — day of —, in the year of our Lord 1842.

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Brokers—see **Embezzlement**.

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Building Act.

BY the 14 Geo. 3, c. 78, various regulations are made with respect to buildings and party walls, and for the more effectual preventing mischiefs by fire within the cities of *London and Westminster*, and the liberties thereof, and other places within the *weekly bills of mortality*, and the parishes of *Marylebone, Paddington, St. Pancras*, and *St. Luke, Chelsea*, in the county of *Middlesex*.

By *sect. 33*, if any person shall *hinder or obstruct any workman* employed in the building of *party walls*, under the provisions of that section; *Penalty*, 10*l*.

Buildings contrary to the act may be taken down.]—By *sect. 60*, if any person *build, or begin building, or alter any building, contrary to the provisions of the act*, and be convicted on the oath of *two witnesses* before the lord mayor, or *two justices*, the house, building, or wall is declared a common nuisance; and the buildings, and the owner thereof, or one of them, shall enter into a recognizance for abating and demolishing the same within a convenient time, or otherwise for amending it, according to the provisions of the act. In default of entering into such recognizance, he may be *committed to the common gaol*, until he shall have abated or demolished or otherwise amended the building complained of, or until the irregular house or building shall be abated or demolished by order of the lord mayor or justices; which order they are empowered to make, provided the conviction be had within three months after such building shall be finished.

By *sect. 61*, the lord mayor, or *two justices*, after any such building (which is thus declared a common nuisance) is abated or taken

down, may order the person who has been employed to take down the same to sell and dispose of the materials, and out of the proceeds arising from the sale to pay to himself, and all persons employed, the reasonable charges of abating or taking down such nuisance, paying the surplus to the owner of such materials. And if the monies arising from the sale are insufficient, the deficiency shall be made good by the owner, and may be levied in like manner as is afterwards directed in regard to taking down ruinous buildings.

Remuneration and Duties of Surveyors.—By sect. 63, two justices are empowered to award a remuneration to the surveyor of each district for surveying new buildings and walls, to be paid by the master workman employed; and in default of payment, the same may be levied by *distress*.

By sect. 64, if any person shall *begin building a wall, or cut into any party wall*, without first giving notice to the district surveyor, or shall refuse him admittance for the purpose of viewing the same, he forfeits to the surveyor treble the satisfaction which the surveyor would have been entitled to receive for his trouble in viewing such building or wall, besides 20*l.*, to be recovered by action of debt. And every house, building, or wall so begun to be built, in case the same be not built in every respect agreeably to the regulations of the act, shall be demolished or amended by order of the lord mayor, or *two justices*.

By sect. 65, if the workmen employed on any building or wall shall not observe the regulations of the act, the district surveyor is to give notice to the lord mayor, or *two justices*, who are to proceed thereupon to hear the matter; and if any breach of the regulations of the act is found to have been committed, the lord mayor or justices may order the building to be demolished or amended, in the manner before directed.

Punishment of Workmen.—By sect. 66, if any *workman* shall wilfully, carelessly, or negligently, and without the direction, privity, or consent of the master workman, do any thing contrary to the directions of the act;—*Penalty, 50s., on conviction before one justice, on the oath of one witness, one half to be paid to the overseers for the use of the poor, and the other to the informer; in default of payment, commitment to the house of correction for not more than three months, nor less than one.*

Proceedings on Presentment of Ruinous Buildings.—By sect. 70, if any presentment shall be made by an inquest or jury, that any

house or building is in a *ruinous condition*, the court of mayor and aldermen if within the city of London, or the churchwardens or overseers of any parish not within the city, on notice of such presentment, are required to cause a proper and sufficient hoard to be put up for the safety of passengers, and to cause notice in writing to be given to the owner, or other person interested therein, if he can be found, and if not, to cause such notice to be affixed to the door or other notorious part of the house or building, to repair the same, or pull it down, within fourteen days. In default, then, on proof of the notice before the lord mayor, or one justice, the court of mayor and aldermen, out of the cash in the chamber of London, and also every churchwarden and overseer, out of the monies in his hands, are required with all convenient speed to cause such house or building, or so much thereof as may be found necessary for the safety of passengers, to be taken down and secured, and to sell and dispose of such of the materials as they shall judge necessary and expedient for defraying the expenses of the hoard, &c., and to pay the surplus to the owner of the house or building upon demand; but if no demand be made on the overseers before others are appointed, then the overplus is to be added to the monies collected by virtue of the poor rate, and accounted for as such.

By *sect. 71*, however, any owner is entitled, within six years, to receive the overplus from the churchwardens or overseers, within ten days after a personal demand. If the monies arising from the sale are deficient to satisfy the charges before mentioned, such deficiency is to be paid by the *owner* of the house or building, if known and to be met with; in default whereof it may be levied by *distress*. If no owner can be met with, or shall not on demand pay such deficiency, and there is no sufficient distress, then the person who shall at any time afterwards *occupy* such house or building, or the ground where the same stood, is required to pay, and deduct the same out of the rent; in default of which, it may be levied by *distress* on such *occupier*, and the owner is required to allow the amount out of the rent. All money received in respect of any such house or building, if in *London*, is to be paid to the city chamberlain; if out of London, to the churchwardens or overseers of the parish where the house or building is situated, in aid of the fund out of which the expenses and charges have been originally disbursed.

By *sect. 87*, no distress shall be held unlawful for any *defect of form*; and by *sect. 88*, the defendant in an action for any irregu-

larity in the distress may plead tender of amends, or pay money into court.

By *sect. 95, no certiorari; appeal to the next sessions, sect. 96; on entering into a recognizance with two sureties to try the appeal, sect. 97.*

Parishioners are deemed *competent witnesses; sect. 98.* All *proceedings for penalties* must be commenced *within six calendar months; sect. 99.*

Limitation of Action.]—By *sect. 100*, no action can be brought for any thing done in pursuance of the act, until twenty-one days after notice in writing to the party complained against; nor after three calendar months after the fact committed; in which action the *venue* must be in *London, or Middlesex*; and the defendant may plead the general issue and give the special matter in evidence.

And see *Chimnies, Fires.*

Bull-baiting.

BY 5 & 6 Will. 4, c. 59, s. 3, if any person shall keep or use any house, room, pit, ground, or other place, for the purpose of running, baiting, or fighting any bull, bear, badger, dog, or other animal, (whether of domestic or wild nature or kind,) or for cock-fighting, or in which any bull, bear, badger, dog, or other such animal, shall be baited, run, or fought;—*Penalty, not exceeding 5l., nor less than 10s. for every day.*

The person who shall act as the manager of any such house, &c., or who shall receive any money for the admission of any person thereto, or who shall assist in any such baiting, or fighting, or bull-running, shall be deemed the keeper of the same.

The provisions for the apprehension of offenders, and in regard to the *conviction* and the *penalty*, &c. are the same as those relating to the offence of cruelty to animals in general; for which see *post*, title *Cattle*.

For offences of this description committed within London and its vicinity, see *post*, *Metropolitan Police*.

Buoys and Beacons.

BY 6 Geo. 4, c. 125, s. 91, every person who shall ride by, make fast to, or remove, or wilfully run down, or run foul of any vessel appointed or placed to exhibit lights, or any buoy or beacon belonging to the Trinity House, or belonging to or placed by any other corpo-

ration having lawful authority to place the same, shall, besides being liable to the expense of replacing or making good any damage, forfeit not exceeding 50*l.*, nor less than 10*l.*; one-third to go to the informer, and the remainder to the Trinity House. If the prosecutor proceeds for not more than 20*l.*, then (by *sect. 77*) it may be recovered on summary conviction before one justice.

For the proceedings on summary conviction under this act, see *post*, *Pilots*.

And see *Rivers and Navigation, Ships*.

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Burglary.

THE crime of *Burglary* is defined to be “a breaking and entering into the mansion-house of another, with intent to commit some felony, whether the intent be executed, or not.” And the 7 & 8 Geo. 4, c. 29, s. 11, defines also another species of burglary, which consists in *breaking out* of a dwelling-house in the night time, after having previously entered it with intent to commit any felony, or after having committed any felony whilst being therein. The offence of burglary was, until lately, punishable with death; but the capital punishment is now confined to cases where the offence is accompanied with personal violence.

By 7 Will. 4 & 1 Vict. c. 86, s. 2, whosoever shall *burglariously* break and enter into any dwelling-house, and shall *assault, with intent to murder any person being therein, or shall stab, cut, wound, beat, or strike* any such person;—*Felony; death*.

By *sect. 3*, the punishment for burglary, unattended with personal violence, is now *Transportation for life, or not less than ten years; or imprisonment not exceeding three years*.

What shall be deemed to be the Night.—By *sect. 4*, the *night* shall be considered, so far as the same is essential to the offence of *burglary*, to commence at nine o'clock in the evening, and to conclude at six o'clock in the morning.

What Building is part of the Dwelling-house.—By 7 & 8 Geo. 4, c. 29, s. 13, no building, although within the same curtilage with the dwelling-house, and occupied therewith, shall be deemed to be part of such dwelling-house, for the purpose of burglary, unless there shall be a communication between such building and dwelling-house, either immediate, or by means of a covered and inclosed passage leading from the one to the other.

1. *Warrant to apprehend a Burglar, where he actually stole Goods.*

County of } To the constable of —, in the county of —, and to all other peace
Essex. } officers in the said county.

Forasmuch as A. B., of —, in the said county, yeoman, hath this day made information and complaint upon oath before me, J. P., esquire, one of her Majesty's justices of the peace for the said county, that last Wednesday night the dwelling-house of him the said A. B., at — aforesaid, was feloniously and burglariously broken open, and that one silver tankard, of the value of 5*l.*, of the goods and chattels of him the said A. B., was then and there feloniously and burglariously stolen, taken, and carried away from thence, and that he hath just cause to suspect, and doth suspect, that C. D., late of —, in the county of —, labourer, did commit the said felony and burglary: These are therefore in her Majesty's name, to command you, that immediately upon sight hereof you do apprehend the said C. D. and bring him before me, to answer the premises, and to be further dealt withal according to law. Herein fail you not. Given under my hand and seal, the — day of —, in the year of our Lord 1842.

2. *Commitment for the like Offence.*

Kent } To the constable of —, in the said county, and to the keeper of the
to wit. } common gaol at —, in the said county.

These are to command you the said constable, in her Majesty's name, forthwith to convey and deliver into the custody of the keeper of the said common gaol the body of C. D., charged this day before me, J. P., esquire, one of her Majesty's justices of the peace for the county aforesaid, on the oath of A. B., of —, in the said county, yeoman; for that the said C. D., on the — day of — instant, about the hour of twelve in the night, at —, in the county aforesaid, the dwelling-house of A. B., there situate, feloniously and burglariously did break and enter, with intent the goods and chattels of the said A. B. in the said dwelling-house then and there being feloniously and burglariously to steal, take, and carry away, and then and there, in the said dwelling-house, twelve silver spoons, of the goods and chattels of the said A. B., feloniously and burglariously did steal, take, and carry away: And you the said keeper are hereby required to receive the said C. D. into your custody in the said common gaol, and him there safely keep, until he shall be thence delivered by due course of law. Herein fail you not. Given under my hand and seal, this — day of —, 1842.

3. *Commitment for Breaking out of a House.*

[Commencement as above]; for that the said C. D., on the — day of —, at the parish of —, in the county aforesaid, being in the dwelling-house of A. B., there situate, twelve silver spoons, of the goods and chattels of the said A. B., in the said dwelling-house then and there being found, then and there, in the said dwelling-house, feloniously did steal, take, and carry away; and that the said C. D., so being in the said dwelling-house as aforesaid, and having committed the felony aforesaid on the day and year aforesaid, about the hour of twelve in the night of the same day, at the parish aforesaid, in the county aforesaid, feloniously and burglariously did break out of the said dwelling-house, against the form of the statute in that case made and provided: And you the said keeper, &c. [as before.]

Burial of the Dead—See Dead Bodies.

Burning—See Arson, Fires.

Butchers.

BY 3 Car. 1, c. 1, if any butcher shall kill or sell any victual on the Lord's day, he shall forfeit 6s. 8d., on conviction before a justice, on the oath of two witnesses; one-third to the informer, and two-thirds to the poor.

Butter and Cheese.

REGULATIONS as to size and weight of Vessels for packing Butter.]—**By 36 Geo. 3, c. 86, s. 1**, every person who shall make any vessel for the packing of butter, shall make it of good and well-seasoned timber, and tight, and not leaky, and shall grove in the heads and bottoms. Every such vessel shall be a tub, firkin, or half firkin, and of the following weight, proportion, and measure; viz. every tub, including the top and bottom, not less than 11 lbs., nor more than 15 lbs., avoirdupois weight; the top and bottom not to be more than five-eighths of an inch thick; and the tub to be capable of containing 84 lbs. of butter. Every firkin to weigh not less than 9 lbs., nor more than 11 lbs., and to be capable of containing not less than 56 lbs. of butter; and the top and bottom not to be more than four-eighths of an inch thick. Every half firkin to weigh not less than 4 lbs., nor more than 6 lbs., and to be capable of containing not less than 28 lbs. of butter. *Penalty* for default, 10s. for every such vessel.

By sect. 2, every maker of such vessel shall, before it goes out of his possession, brand with an iron his christian and surname at full length, together with the exact weight or tare thereof, under the like penalty.

By 38 Geo. 3, c. 73, s. 1, the maker must, in addition to his name, mark in like manner his place of abode, under the like penalty.

By sect. 2, every factor or agent, who shall buy, sell, or offer to sale, or have in his custody for sale, or shall order, consign, forward, or send, any vessel containing butter for sale, which shall not be made and marked as above;—*Penalty*, 20s.

By sect. 3, every dealer on his own account, who shall offer for

sale, or have in his possession for sale, any vessel containing butter, which shall not be so externally marked ;—*Penalty*, 10s.

Regulations for packing Butter.—By 36 Geo. 3, c. 86, s. 3, every dairyman, farmer, or seller of butter, or other person who shall pack butter for sale, shall pack it in vessels marked as above, and shall properly soak and season the vessels before packing ; and on the bottom thereof on the inside, and on the top on the outside, brand with an iron his christian and surname at full length, and also on the outside of the top and on the body thereof the true weight or tare of such empty vessel when so soaked and seasoned, and also his name on the body, across two different staves, at least, and also imprint his christian and surname upon the top of the butter in such vessel when filled ; *Penalty* 5*l.* for every default.

By *sect.* 4, he must pack (exclusive of the tare) in every tub, not less than 84*lbs.*, every firkin 56*lbs.*, and half firkin 28*lbs.* net of good and merchantable butter. No old or corrupt butter to be mixed or packed with new and sound, nor any whey butter with that which is made of cream ; but every vessel to be of one sort and goodness throughout. No butter to be salted with any great salt, but with fine small salt, and not intermixed with more than is needful for its preservation ; *Penalty* 5*l.* for every offence.

By *sect.* 7, no dealer or other person shall repack for sale any butter in any such vessel, on pain of forfeiting 5*l.* for every vessel so repacked.

Foreign Butter.—But by *sect.* 8, no person shall be liable to this penalty for repacking any foreign butter, if he shall entirely efface the name of the original dairyman, leaving that of the cooper and the tare of the original dairyman, and shall afterwards brand his own name in words at length, and the words “ Foreign Butter,” in permanent and legible letters, across two staves of the vessel.

Recovery and application of penalties.—By *sect.* 13 and 14, where the penalty shall not exceed 5*l.*, the complaint may be heard by one justice, on the oath of one witness ;—*Distress* ; in default of which, imprisonment in the gaol or house of correction not exceeding three calendar months, nor less than twenty-eight days.

A general form of conviction is given by *sect.* 11 ; appeal to the next sessions by *sect.* 12 ; conviction not to be set aside for want of form, or be removeable by *certiorari*, *sect.* 13.

Shipping Butter and Cheese for London.—By 4 Will. 3, c. 7,

s. 4, every warehouse-keeper, weigher, searcher, or shipper of butter, and cheese, shall receive all butter and cheese that shall be brought to him for the London cheesemongers, and ship the same, without undue preference, and shall have 2s. 6d. for every load; and if he shall make default, he shall, on conviction before one justice, on oath of one witness, forfeit for every firkin of butter 10s., and every weigh of cheese 5s., half to the poor, and half to the farmer, to be levied by *distress*.

By *sect. 5*, he shall keep a book of entry of receiving and shipping the goods, on pain of 2s. 6d. for every firkin of butter and weigh of cheese, to be levied and applied in like manner; and for want of distress to be committed till paid.

By *sect. 6, 8*, if any master of a ship refuses to take in butter or cheese, before he is full laden, he shall forfeit for every firkin of butter 5s., and for every weigh of cheese 2s. 6d., to be levied and applied in like manner.

By *sect. 10*, *appeal* to the next sessions, giving 20*l.* bond, with one or more sureties.

By *sect. 9*, the act is not to extend to any warehouse in *Cheshire* or *Lancashire*.

As to the selling of butter in the city of *London*, see 4 Will. 3, c. 4; in the city of *York*, see 8 Geo. 3, c. 27; and in *New Malton*, 17 Geo. 2, c. 8.

Conviction (1) on 36 Geo. 3, c. 86, s. 4, for mixing corrupt with sound Butter.

Kent,) Be it remembered, that on this — day of —, A. B. of — is con-
to wit.) victed before me, J. P. esq., one of her Majesty's justices of the peace for
the said county. For that the said A. B., on the — day of —, at —, in the
county aforesaid, did mix and pack up a large quantity, that is to say, thirty pounds
weight of old and corrupt butter in a tub with butter which was new and sound, and
did thereby cause the said tub containing the said butter not to be of one sort and
goodness throughout, contrary to the form of the statute in such case made and pro-
vided: And I the said justice do therefore adjudge the said A. B. to pay and forfeit for
the said offence the sum of 5*l.* Given under my hand and seal the day and year first
above written.

Buttons.

THERE are various statutes still in force, prohibiting the use of certain buttons on clothes, for the purpose of encouraging the consumption of raw silk and mohair; but they do not appear to have

(1) This form of conviction is given by the 11th section of the statute.

been much acted upon of late years. The first that gave any jurisdiction to a justice of the peace on the subject is the 4 Geo. 1, c. 7.

Penalty for using Cloth Buttons.—By the *first section* of that statute, *no tailor*, or other person, shall make, sell, set on, use, or bind on any clothes, any buttons, or button-holes made of, or used, or bound with any stuff that clothes are usually made of, (velvet excepted,) on pain of forfeiting 40s. per dozen. Conviction before *one justice*, on oath of *one witness*, in three months after the offence committed; half to the informer, and half to the poor; in default of payment in fourteen days, *distress*; in default of distress, *commitment to the common gaol to hard labour for three calendar months*.

By *sect. 8*, all the clothes made with such buttons and button-holes exposed to sale, shall be forfeited, and disposed of in like manner as the above penalty.

By 7 Geo. 1, st. 1, c. 12, *no person* shall use, or wear on any clothes, (velvet excepted,) any such buttons or button-holes, on pain of 40s. for every dozen, on conviction in like manner, and complaint made in one month after the offence. On refusal to pay the penalty, *distress*; application of penalty as above. *Appeal* to the next sessions, giving eight days' notice.

Regulations as to Metal Buttons.—By 36 Geo. 3, c. 60, s. 1, no person shall direct false marks to be stamped on any metal buttons; and no person shall procure or purchase any metal buttons with false marks, on pain of forfeiting the buttons, and also 5*l.* for any quantity not exceeding twelve dozen; and for any quantity above that number, after the rate of 1*l.* for *every twelve dozen*.

By *sect. 2*, no person shall cause to be put on any metal button any false mark denoting it to be gilt or plated; or pack for sale, or sell or expose to sale, any such buttons, under the like penalty.

By *sect. 3*, no person shall print upon any metal button any mark, except the words *gilt* or *plated*; or shall pack for sale, or offer or expose to sale, or cause to be exposed to sale, any buttons with such other marks, under the like penalty. But by *sect. 4*, the words *double gilt*, and *treble gilt*, may be marked on buttons, provided there shall be spread a proper quantity of gold upon the upper surface of them.

By *sect. 5*, if any person shall make out, send, or deliver, in relation to any metal buttons, any list, bill of parcels, or invoice, expressing any other than the real quality of the buttons, he shall forfeit 20*l.*

By *sect. 6*, no person shall knowingly intermix buttons not gilt or

plated with those that are gilt or plated, except on a pattern card, under the penalty imposed by *sect. 1*.

Sect. 7 defines the buttons that shall be deemed *gilt* and *plated*.

By *sect. 8, 14, 15, and 16*, *one justice* may by his warrant cause such buttons as are liable to forfeiture to be seized, and to keep them for the purpose of being produced in evidence upon any prosecution, and, when no further necessary, may order them to be destroyed. *Two justices* may hear and determine the complaint, within three calendar months, on oath of *one witness*. The penalty to go, half to the poor. For want of *distress*, imprisonment, not exceeding three calendar months.

By *sect. 9*, *appeal* to the next sessions, on giving sufficient security. By *sect. 10*, power to *mitigate* any penalty to one half; but if penalties less than 40*l.*, not to be mitigated below 20*l.*

By *sect. 11 and 12* a general form of conviction is given, not to be void, for want of form.

By *sect. 13*, witnesses not appearing forfeit 5*l.*; and by *sect. 17*, inhabitants of the parish may be witnesses.

By *sect. 18*, offenders, discovering by whom employed, indemnified, and entitled to a moiety of the penalty.

By *sect. 19*, manufacturers not liable to the penalties on account of metal buttons not being gilt with gold, who can prove to have acted *bonâ fide*, by one witness, before two justices.

By *sect. 20*, the act is not to extend to buttons made of gold, silver, tin, pewter, lead, or mixtures of tin and lead, or iron tinned, or of Bath or white metal, or any of these metals inlaid with steel, or buttons plated upon shells.

And see 1 Deac. Crim. Law, 200.

Canals—See *Rivers and Navigation, Banks of Rivers*.

Cards and Dice.

FORGING Stamps on.]—By 9 Geo. 4, c. 18, s. 35, if any person shall forge or counterfeit, or shall cause or procure to be forged or counterfeited, any type, die, seal, stamp, plate, mark, or device, or any part of any type, &c., which shall be at any time provided, made, or used by or under the authority of the commissioners of stamps in pursuance of that act; or shall counterfeit, or shall cause or procure to be counterfeited or resembled, the impression of any such type, &c.,

or any part thereof, upon any playing card or dice, or upon any label, thread, or paper; or shall forge or counterfeit the name, handwriting, or signature of any sealing officer, or other officer of stamps, to or upon any wrapper, paper, or material in which any dice shall be actually inclosed; or shall forge or counterfeit, or shall cause or procure to be forged or counterfeited, any mark or name, or any part of any mark or name, directed to be used by the commissioners of stamps in pursuance of that act, in order to distinguish the maker of any such cards or dice respectively, and printed or marked on, or affixed to, or making part of, the wrapper, label, or paper in which any playing cards or dice shall be actually enclosed, with intent to defraud his majesty of any of the duties at any time by law payable upon cards or dice; or shall utter or sell, or expose to sale, or part with for use in play, any card, die, ace of spades, label, wrapper, or jew whatsoever, with such counterfeit seal, stamp, mark, device, impression, name, or signature, knowing the same to be counterfeit; or shall privately or fraudulently use any seal, stamp, mark, plate, device, or label, at any time provided, made, or used by or under the authority of the commissioners of stamps in pursuance of that act, with the like intention; *Felony*; punishable by 1 Will. 4, c. 66, with transportation for life, or not less than seven years, or imprisonment not exceeding four years, nor less than two.

Search Warrant.—By sect. 19, whenever there shall be cause to suspect that any person shall make, or cause to be made, any playing cards or dice, without licence duly obtained as by the act required, upon affidavit being made of such suspicion by any person before any justice of the peace for the county or place, where such cards or dice shall be suspected to be making or made; any officer employed by, and acting under, the commissioners of stamps, in the daytime, and in the presence of a constable, or other lawful officer of the peace, (who is required to be aiding and assisting therein,) may, by warrant from such justice, to be directed to such officer, break open the door, or any part of the house or place in which any such cards or dice shall be suspected to be so made or making, and thereupon to enter and seize all cards or dice which shall be therein found, made, or begun to be made, and all the tools, materials, and utensils for making the same, and all such cards, dice, tools, &c. shall be seized and forfeited, and may be sold or destroyed at the discretion of the commissioners.

Carriers.

BY 3 Car. 1, c. 1, no carrier with any horse, nor waggon-man, carman, or wainman, with their respective carriages, shall, by themselves, or any other, travel on the Lord's Day, on pain of 20s., on conviction in six months before *one justice*, on oath of *two witnesses*, to be levied by distress; to the use of the poor, except that the justice may award not exceeding a third part to the informer.

Carts, Waggon, &c.

BY 1 & 2 Will. 4, c. 22, s. 60, if any person shall drive or use, or cause to be driven or used, in or upon any public street or road within the distance of five miles from the General Post Office, any waggon, wain, cart, car, dray, or other such carriage, upon which there shall not be duly painted in such legible and conspicuous characters as directed by the act—viz. (by *sect. 59*) in words at full length, and in one or more straight line or lines, upon some conspicuous place on the right or off side, clear of the wheels, or upon the right or off side shaft, the true Christian and surname, and place of abode, of the owner, or (if there be more than one) of the principal owner, the letters of all such words being painted black upon a white ground, or white upon a black ground, and at least one inch in height, and of a proper and proportionate breadth—he shall forfeit 5*l.* Any person may seize such waggon, &c., and any horse drawing the same, and lodge them for safe custody at some public green yard, or other place of safety, and detain them until a justice shall hear and determine the offence, and until the penalty, with the costs and expenses, shall be fully paid. In default of payment, they may be sold under an order of a justice, for the payment of such penalty, &c., rendering any overplus to the owner.

For the application of the penalty, and the proceedings on summary conviction, see **Hackney Coaches**, to which subject this statute more particularly applies.

By 2 & 3 Vict. c. 47, s. 54, every person, who, within the limits of the Metropolitan Police District, having the care of any cart or carriage in any thoroughfare or public place, shall ride on any part thereof, on the shafts, or on any horse or other animal drawing the same, without having and holding the reins, or who shall be at such a distance from the cart or carriage, as not to have the complete control over every horse or other animal drawing the same, is liable to a

penalty not more than 40s. And any constable of the Metropolitan Police Force may take into custody, without warrant, any person who shall commit any such offence within his view.

And see further **Highways, Turnpike Roads, and Metropolitan Police.**

Cattle and Animals.

And see **Horses.**

STEALING them.]—By 7 & 8 Geo. 4, c. 29, s. 25, if any person shall steal any horse, mare, gelding, colt, or filly; or any bull, cow, ox, heifer, or calf; or any ram, ewe, sheep, or lamb; or shall wilfully kill any such cattle, with intent to steal the carcase or skin, or only part of the cattle so killed;—*Felony*; the punishment for which is now, by virtue of the provisions of the 7 W. 4 & 1 Vict. c. 90, s. 1, reduced to *Transportation not exceeding fifteen years, nor less than ten years; or imprisonment not exceeding three years.*

Feloniously Killing or Maiming them.]—By 7 & 8 Geo. 4, c. 30, s. 16, if any person shall unlawfully and maliciously kill, maim, or wound any cattle;—*Felony*; the punishment for which is now, by 7 W. 4 & 1 Vict. c. 70, s. 2, the same as the above punishment for stealing them.

Cruelty to.]—By 5 & 6 Will. 4, c. 59, s. 2, if any person shall wantonly and cruelly beat, ill-treat, abuse, or torture any horse, mare, gelding, bull, ox, cow, heifer, steer, calf, mule, ass, sheep, lamb, dog, or any other cattle, or domestic animal; or if any person, who shall drive any cattle, or other animal, shall, by negligence or ill-usage in the driving thereof, be the means whereby any mischief, damage, or injury shall be done by any such cattle or other animal;—*Penalty, on conviction before one justice, not exceeding 40s., nor less than 5s., with costs, over and above the amount of the damage or injury done; in default of payment, commitment to the common gaol or house of correction for not more than fourteen days.*

Apprehending Offenders.]—By *sect.* 9, any constable, or peace officer, or the owner of any cattle, upon view of any offence committed against the act, or upon the information of any other person, who shall declare his name and place of abode to the officer, may seize the offender and convey him before a justice, without any warrant.

Concealing Name.]—By *sect.* 10, if any offender shall refuse to discover his name and place of abode to the justice, he may immedi-

ately be delivered over to a constable, and committed to the common gaol or house of correction, for not more than one calendar month, or until he shall make known his name and place of abode to the justice.

Prosecutions and Witnesses.—By *sect. 11*, prosecutions must be commenced within three calendar months after the commission of the offence; and the party complaining, and overseers and inhabitants of the parish, are declared competent witnesses, as well as the informer, (by *sect. 18*,) though entitled to a part of the penalty.

Imprisonment.—By *sect. 12*, in default of payment of the penalty, the justice may commit the offender to the common gaol or house of correction, with or without hard labour, not exceeding fourteen days, where the amount of the penalty, together with the costs, shall not exceed 5*l.*; and for not more than two calendar months in any other case.

Proceedings.—By *sect. 13*, upon complaint made by any person of any offence, within fourteen days after its commission, a justice may summon the party accused, and proceed to conviction, on the oath of one witness.

Sect. 14 gives a general form of conviction; and *sect. 15* provides that the summons may be served, by being left at the usual or last known place of abode of any party.

Neglect of Constables.—By *sect. 16*, if any constable neglects to serve or execute any summons or warrant, he is liable to a penalty not exceeding 5*l.*, to be awarded by the justice, and in default of payment to be committed to the county gaol or house of correction not exceeding one calendar month.

Application of Penalties.—By *sect. 17*, one moiety of the penalty is to go to the overseers of the parish, and the other to the informer, or such other person as the justice may think proper; and any sum which shall be awarded, as the amount of any damage or injury occasioned by the commission of any offence, is to be paid to the person sustaining such damage.

Limitation of Actions.—By *sect. 19*, all actions against any persons for anything done under the act, must be commenced within one calendar month after the fact committed, and in the same county, and notice in writing must be given to the defendant fourteen clear days before the action, in which, if the defendant obtains judgment, he is entitled to full costs as between attorney and client; and although the

plaintiff obtains a verdict, he is not to have costs, unless the judge certifies in his favour.

Appeal.—*Sect. 20* gives an appeal to the quarter sessions against any conviction, on giving fourteen days notice to the justice.

Interpretation.—By *sect. 21*, the word “cattle” is declared to comprehend any horse, mare, gelding, bull, ox, cow, heifer, steer, calf, mule, ass, sheep, or lamb, or any other cattle, or domestic animal.

For the ill-treatment of cattle when impounded, see *Impounding Cattle*.

And see further *Brothers*.

Conviction (m) under the 5 & 6 Will. 4, c. 59, for cruelly beating a Horse.

Kent, } Be it remembered, that on the — day of —, in the year of our Lord
to wit. } —, at —, in the county of —, A. B. is convicted before me, J. P.,
esq., one of her Majesty's justices of the peace for the said county, for that he the said
A. B., on the — day of —, in the year —, at — in the said county, did
wantonly and cruelly beat, ill-treat, abuse, and torture a certain horse, which he the
said A. B. was then and there driving on the Queen's highway (n): And I do adjudge
the said A. B., for his said offence, to forfeit and pay the sum of — (o), and also to
pay the sum of — for costs; and in default of immediate payment of the said several
sums, to be imprisoned in the house of correction at —, in the said county, [in the
case of a second or subsequent conviction, add “to be there kept to hard labour,” (p)] for
the space of —, unless the said sums shall be sooner paid; and I direct that the said
sum of — [the penalty] shall be paid as follows, that is to say, one moiety thereof to
the overseers of the poor of the said parish of —, to be by them applied according
to the directions of the statute in that case made and provided, and the other moiety
thereof to C. D., of — [the prosecutor], and that the said sum of — [the sum for
the amount of injury done, if any sum is awarded] shall be paid to the said E. F.; and
I order that the said sum of — for costs shall be also paid to the said C. D. Given
under my hand and seal the day and year first above mentioned.

Certiorari.

WHEN it lies.—A *certiorari* is an original writ issuing out of the Court of Chancery, or the Queen's Bench, directed in the Queen's name to any court or judicial officer of inferior jurisdiction, commanding them to *certify*, or to return the records of a cause depending before them, in order that the party may have more sure and

(m) This form of conviction is given by the 14th section of the act.

(n) If the conviction is for a second offence, the first should be here stated.

(o) If any compensation is awarded to the owner of the horse, insert here “and also the further sum of — for the amount

of the injury done to the owner of the said horse.”

(p) These are the directions in the form of conviction given by the act; but by *sect. 12*, hard labour may be imposed on a first conviction. Indeed, there is nothing mentioned in the act as to a second conviction, except in the above form.

speedy justice; and the power of the Queen's Bench to grant it can never be taken away, unless by express words in a statute (*p*). Although an indictment is not removable by this writ, after conviction at the assizes or quarter sessions, yet in the case of summary proceedings, orders, and convictions before magistrates, *these* may be removed by *certiorari*, after judgment; because that is the only mode by which they can be removed (*q*). But a *certiorari* does not lie to remove other than judicial acts, and therefore it will not be granted to remove a mere warrant of a magistrate (*r*). And no conviction before a magistrate can be removed, while an appeal against it is pending at the sessions (*s*), nor even before the expiration of the time limited by the statute for appealing; for that would take away the privilege of appeal (*t*).

When it must be applied for.—By 13 Geo. 2, c. 18, s. 5, no certiorari shall be granted to remove any conviction, judgment, order, or other proceeding before a justice of the peace, unless it be applied for within six calendar months next after the proceeding so had or made, and proved upon oath that the party has given six days' notice in writing to the justice. The six calendar months are to be computed from the date of the conviction (*u*).

Notice.—The notice must state the *name* of the party applying for the writ (*x*), and must be given previous to the application for the rule nisi (*y*). The six days' notice must be reckoned exclusively of one day, and inclusively of the rest (*z*); and where a notice expressed an intention to move for the certiorari "on the first day of next term, or so soon after as I can be heard," and was only served on the first day of the term, it was held to be irregular, although the party did not in fact move until after the expiration of six days (*a*). A notice "on behalf of the churchwardens and overseers of S.," if signed only by one churchwarden, is not a sufficient notice by the "party or parties suing forth" the writ, within the meaning of the statute (*b*). And if two justices convict a man under a statute, which gives one justice power to convict singly, yet the notice should be served on both parties (*c*). A certiorari cannot be issued at the

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| (<i>p</i>) <i>R. v. Jukes</i> , 8 T. R. 542. | (<i>y</i>) <i>R. v. Glamorganshire Justices</i> , 5 |
| (<i>q</i>) <i>R. v. Seton</i> , 7 T. R. 373. | T. R. 279. |
| (<i>r</i>) <i>R. v. Lloyd</i> , Cald. 309; <i>R. v. Lediard</i> , Say. 6. | (<i>z</i>) <i>R. v. Goodenough</i> , 2 Ad. & E. 463. |
| (<i>s</i>) <i>R. v. Sparrow</i> , 2 T. R. 196. | (<i>a</i>) <i>Re Flounders</i> , 4 B. & Adol. 865. |
| (<i>t</i>) Reg. Gen. E. 1, Ann. | (<i>b</i>) <i>R. v. Cambridgeshire</i> , 3 B. & Adol. 887. |
| (<i>u</i>) <i>R. v. Boughey</i> , 4 T. R. 281. | (<i>c</i>) <i>R. v. Baldwin</i> , 1 Gude's Prac. 222. |
| (<i>x</i>) <i>R. v. Lancashire Justices</i> , 4 B. & Ald. 289. | |

instance of any party but the party who has given the notice, although he avowedly drops the proceeding, and it is too late to give a fresh notice (*e*).

Recognizance.—By 5 Geo. 2, c. 19, s. 2, no *certiorari* shall be allowed to remove any judgment or order of a justice of the peace, unless the party enter into a recognizance with sufficient sureties before a justice of the same county, or before a judge of the King's Bench, in the sum of 50*l.*, to prosecute the same with effect, and without delay, and to pay the party in whose favour such judgment or order was made, within one month after confirmation thereof, his full costs and charges; and in default, the justice may proceed to make such further order in the matter as if no *certiorari* had been granted.

This statute is not complied with by the party and his sureties entering into a recognizance in 25*l.* each; it must be in the entire sum of 50*l.* (*f*). And the two sureties must be in addition to the party suing out the *certiorari* (*g*). The *certiorari* also will not be allowed, until bail is indorsed on the writ (*h*); but the statute seems only to apply to cases where an appeal is given (*i*).

Operation of the Writ.—The effect of the *certiorari* is to remove all proceedings pending when the writ is returned, whether such proceedings originated before, or after, the *teste*. The magistrates below are bound to obey the writ, after notice by production of it to them; and after that, all further proceedings before them on the matter are erroneous (*h*).

Return of the Writ.—The justices, to whom the *certiorari* is directed, ought to make the return; and it ought to be under their *seals*, and written on parchment, and not on paper (*l*). The return, also, must be strictly according to the directions of the writ; and therefore where on a *certiorari* to remove a *conviction*, the justices merely returned two affidavits and a warrant to distrain, the return was quashed as insufficient (*m*). A recognizance taken by a justice of the peace, whether it continues in the hands of the justice, or has been sent by him to the clerk of the peace, ought to be certified by such justice only, until it be made a record of the sessions; after which it ought to be returned in the same manner as other records (*n*).

(*e*) *R. v. Kent Justices*, 3 B. & Adol. 250.

(*f*) *R. v. Dunn*, 8 T. R. 217.

(*g*) *R. v. Boughey*, 4 T. R. 281.

(*h*) *R. v. Bothill*, 1 Salk. 149.

(*i*) 8 T. R. 218, note.

(*k*) *R. v. Battams*, 1 East, 298.

(*l*) 2 Hawk. c. 27, ss. 70, 71.

(*m*) *R. v. Leverman*, 1 Salk. 146.

(*n*) 2 Hawk. c. 27, s. 72.

The remedies for a false return are by action on the case at the suit of the party injured by it, or an information at the suit of the Queen (*o*).

Costs.—The condition of the recognizance, directed to be taken by the 5 Geo. 2, c. 19, s. 2, is to pay the prosecutor his full costs in one month after the confirmation of the order; which (by *sect. 3*) may, when taxed, be recovered within ten days after demand made of the party and refusal of payment, upon proof on oath, by attachment. Where, however, there is no recognizance taken, there are no costs; for the court has, in that case, no power to tax them by virtue of any of the statutes relating to criminal proceedings (*p*).

Whether a justice of the peace, who is the prosecutor of an indictment, is entitled to costs under the statute of 5 & 6 Will. & Mary, c. 11, on the removal of an *indictment* by certiorari, depends upon the question, whether he is to be considered as a *public officer* prosecuting for the benefit of the public. By *sect. 3* of that statute, if the defendant presenting the writ of certiorari be convicted of the offence for which he was indicted, the Court of King's Bench shall give reasonable costs to the prosecutor, if he be the party grieved or injured, *or be a justice of the peace*, mayor, bailiff, or other civil officer, "who shall prosecute upon the account of any fact committed or done, that concerned him or them as officer or officers, to prosecute or present." It has been determined, that the costs given by the statute can only be claimed by a justice, when he prosecutes for some offence which naturally comes within his own peculiar cognizance, and not for a private, or even a public grievance, with which he thinks fit to interfere. Therefore, where a justice of the peace had indicted a gaoler for suffering a prisoner to escape, who had been committed by him for felony, upon which indictment the defendant had been convicted after it had been removed by certiorari, it was held that the justice was not entitled to costs; as the prosecution was not carried on by him, *ex officio*; for any other person might have indicted the defendant; and if the justice chose to take the prosecution out of private hands and to conduct it himself, he cannot be said to prosecute as a magistrate, but like any other individual (*q*). But where a justice of the peace indicted a road for being out of repair, and the indictment was afterwards removed by *certiorari*, and the defendant was convicted, it was held that he was entitled to costs; for, as

(*o*) 2 Hawk. c. 27, s. 74.

(*p*) *R. v. Jenkins*, 1 T. R. 82.

(*q*) *R. v. Sharpness*, 2 T. R. 47.

magistrates are to see that the public roads are kept in repair, it is part of their duty to present or indict them; and the prosecution therefore was carried on for the benefit of the public (r).

1. Writ of certiorari to two committing justices, to certify the Information, Examination, and Depositions upon which the prisoner was committed.

Victoria, by the grace of God of the united kingdom of Great Britain and Ireland Queen, defender of the faith. To C. D. and E. F. esquires, two of our justices assigned to keep our peace in and for our county of —, and also to hear and determine divers felonies, trespasses, and other misdemeanors committed within our said county, and to every of them, greeting: We, being willing for certain reasons that all and singular informations, examinations, and depositions taken by and remaining with you, or either of you, in a certain case of felony, or suspicion of felony, charged against A. B., and for which you, or one of you, have committed the said A. B. to the prison of —, as it is said, be sent by you before us, do command you and every of you, that you or one of you do send us, immediately after the receipt of this our writ, all and singular the said informations, examinations, and depositions, with all things touching the same, as fully and perfectly as they have been taken before you, and now remaining in your custody, by whatsoever name the said A. B. is called in the same, together with this writ, that we may further cause to be done therein what of right, and according to the law and custom of England, we shall see fit to be done. At Westminster, the — day of —, in the fifth year of our reign.

By the court.

Witness, Thomas Lord Denman.

2. Certiorari to two justices of the peace, to remove a conviction into the Queen's Bench.

Victoria, by the grace of God of the united kingdom of Great Britain and Ireland Queen, defender of the faith. To A. B., knight, mayor of the city of York, and J. L., knight, two of our justices assigned to keep our peace in and for our said city, and also to hear and determine divers felonies, trespasses, and other misdeeds committed within our said city, and to every of them, greeting: We, being willing for certain causes that all and singular records of conviction, of whatsoever trespasses and contempts against the form of the statute, intituled, "An Act, &c." whereof C. D. is convicted by you (as it is said), be sent by you before us, do command you that you send, or one of you do send, all and singular the records of conviction aforesaid, with all things touching the same, by whatsoever name the said C. D. may be named therein, before us, under your seals, or the seal of one of you, on the — day of —, where-soever we shall then be in England, together with this our writ, that we may further cause to be done thereon that which of right, and according to the law and custom of our realm of England, we shall see fit to be done. Witness, Thomas Lord Denman, at Westminster, the — day of —, in the fifth year of our reign.

3. Return from a single justice.

County of —, } I, A. B., esq., one of the keepers of the peace and justices of our
to wit. } Lady the Queen, assigned to keep the peace within the said county,
and also to hear and determine divers felonies, trespasses, and misdemeanors in the same

county committed, by virtue of this writ to me delivered, do under my seal return unto her Majesty, in her Court of Queen's Bench, the record of conviction, of which mention is made in the same writ, together with all matters touching the same. In witness whereof I, the said justice, have to these presents set my seal. Given at —, in the said county, the — day of —, in the year of our Lord 1842.

Challenge to Fight.

A CHALLENGE to fight having an immediate tendency to cause a breach of the peace, which may end in the crime of murder, it is the duty of a magistrate to interpose promptly on such an occasion, by issuing his warrant to bring the parties before him, and requiring them to find sureties to keep the peace.

1. *Information of a party charging two persons with an intention to fight a Duel.*

Surrey, } The information of A. B., of &c., gentleman, taken on oath this — day
to wit. } of —, in the year of our Lord 1842, before me, J. P., esquire, one of her Majesty's justices of the peace in and for the said county, who saith, that he hath good reason to believe that C. D. of —, esquire, and E. F. of —, esquire, are about to fight a duel, and that the informant is afraid they will do each other some grievous bodily harm, if not prevented from meeting in a hostile way: Wherefore he prays that I the said justice will issue my warrant to bring the said parties before me, and require them to find sureties to keep the peace towards each other, and be otherwise dealt with according to law. Taken before me, the day and year above mentioned.

J. P.

2. *Warrant thereon.*

Surrey, } To G. H., constable of —, and all others whom this may concern.
to wit. }

Whereas, A. B., of &c., gentleman [*reciting the above information*]: I do therefore in her Majesty's name, hereby require and command you to apprehend the said C. D. and E. F., wheresoever you shall find them, and bring them before me, or some other of her Majesty's justices of the peace, at —, in the said county, on —, the — day of — instant, at — o'clock in the forenoon, or so soon afterwards as you can meet with the said C. D. and E. F., or either of them, to answer the said complaint, and to find sufficient sureties to keep the peace towards her Majesty and all her liege people, and especially towards each other, for such term as shall be then enjoined them respectively, and to be further dealt with according to law. Given under my hand and seal, the — day of —, in the year of our Lord 1842.

J. P. (L. S.)

3. *Commitment of a party for not finding Sureties.*

Surrey, } To G. H., constable of —, in the said county, and also to the keeper
to wit. } of her Majesty's gaol for the said county, and all other persons whom this may concern.

Whereas, A. B., of &c., gentleman [*reciting the above information*]: And whereas

the said C. D. was this day brought before me, J. P., esquire, one of her Majesty's justices of the peace for the said county, at —, in the said county, to answer the said complaint, and it now appears in evidence before me, on the oath of P. W., a credible witness in this behalf, and also on the admission of the said C. D., that he the said C. D. did, on the — day of — instant, write and send to the said E. F. a certain letter containing a challenge to fight a duel with him the said C. D.; whereupon I, the said justice, have ordered and adjudged, and do hereby order and adjudge, that the said C. D. shall enter into his own recognizance in the sum of 200*l.*, with two sufficient sureties in the sum of 100*l.* each, to keep the peace towards her Majesty and all her liege people, and particularly towards the said E. F., for the term of one year now next ensuing: But, inasmuch as the said C. D. hath refused, and still refuses, to enter into such recognizance and to find such sureties as aforesaid, I do hereby require and command you the said constable forthwith to convey the said C. D. to the common gaol of the said county, and to deliver him to the keeper thereof, together with this warrant: And I do also require and command you, the said keeper, to receive the said C. D. into your custody in the said gaol, and him there safely keep for the space of one year, unless he in the mean time shall enter into such recognizance, with such sureties as aforesaid, to keep the peace in the manner, and for the term above mentioned. Herein fail not. Given under my hand and seal, this — day of —, &c.

J. P. (L. S.)

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~~Chance-Medley~~—See ~~Murder~~.

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~~Cheating~~—See ~~False Pretences~~.

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Chelsea Hospital.

BY 7 Geo. 4, c. 16, s. 16, any justice of the peace may inquire into the truth of any certificate, voucher, or document required by any rules or regulations of the hospital, and produced to him by any person claiming any pension, allowance, or relief, under any such certificate or voucher, by the oath or affirmation of such person; and persons swearing falsely are declared guilty of perjury,

False Certificates.—By *sect. 25*, if any person shall, by the sending or production of any false certificate, or any altered certificate or discharge, instructions, or other document, knowing the same to have been fraudulently altered, or by making any false representation, obtain or endeavour to obtain for himself or any other person from the commissioners of the hospital, any pension or increase of pension, or other allowance of money, or any enrolment, or other privilege or advantage; he is to be deemed guilty of a *misdemeanor*, and for ever forfeits all claim to any pension, &c.

Pawning Clothes, &c.—By *sect. 34*, if any pensioner shall unlawfully pawn, sell, embezzle, secrete, or dispose of, or if any pawnbroker or other person shall unlawfully take in pawn, buy, exchange, or receive any clothes, linen, stores, or other things, marked or stamped or branded with the words "*Chelsea Hospital*;" or if any pensioner, or other person, shall cause such work to be obliterated or defaced, or shall knowingly and unlawfully pawn, sell, or dispose of, or shall knowingly take in pawn, buy, exchange, or receive any clothes or other articles belonging to the hospital, or shall secrete, embezzle, or not duly account for them, whether marked, or unmarked, such articles having been entrusted or delivered to him for any purpose whatsoever;—*Penalty*, not exceeding 20*l.*, on summary conviction before a justice of the peace, on the oath of *one witness*, to be levied by distress; one moiety to be paid to the informer, and the other to the hospital. In default of distress, or if the justice shall think the offender is likely to abscond, the commitment to the common gaol for three calendar months.

False personation.—By *sect. 38*, if any person shall willingly and knowingly personate or falsely assume the name or character, or procure any other person to personate, &c., of any officer, non-commissioned officer, soldier, or other person, entitled or supposed to be entitled to any pension, wages, pay, grant, or other allowance of money, prize-money, or relief, or shall personate or falsely assume the name or character of the executor or administrator, wife, relation, or creditor of any such officer, non-commissioned officer, or soldier, or other person, in order fraudulently to receive any pension, wages, pay, grant, or other allowance of money, prize-money, or relief; or if any person shall forge, or counterfeit or alter, or cause or procure to be forged, &c., or knowingly and willingly act, aid, or assist in forging, &c. the name or handwriting of any officer, &c., or of any officer, under officer, clerk, or servant of the commissioners of the hospital, or of any officer or person in any way concerned in the paying, or ordering directing or causing the payment, of the said pensions, &c.; or shall forge, counterfeit, or alter, or cause or procure to be forged, &c., or knowingly and willingly act, aid, or assist in forging, &c. any letter of attorney, bill, ticket, order, certificate, voucher, receipt, will, or any other power, instrument, warrant, document, or authority whatsoever, relating to or in any wise concerning the payment or obtaining or claiming any pension, &c., for and in order to the receiving, obtaining, or claiming any such pension, &c., or shall utter or publish as true, or knowingly and willingly act, aid, or assist

in uttering, &c., knowing the same to be forged, counterfeited, or altered, any such letter of attorney, &c., with intent to obtain the payment of any such pension, &c. from the commissioners of the hospital, or from any officer, under officer, clerk, or servant of the commissioner, or from the person authorized or supposed to be authorized to pay the same, or with intent to defraud any person, or any corporation whatsoever;—*Felony*, Transportation for life, or such term of years as the court shall adjudge.

Children.

FOR regulations as to the employment of children in mills and factories, see *Factories*.

Child Stealing.

BY 9 Geo. 4, c. 31, s. 21, if any person shall maliciously, either by force or fraud, lead or take away, or decoy or entice away, or detain any child under the age of ten years, with intent to deprive its parent or parents, or any other person having the lawful care or charge of it, of the possession of such child, or with intent to steal any article upon or about the person of such child, to whomsoever such article may belong; or if any person shall, with such intent as aforesaid, receive or harbour any such child, knowing the same to have been by force or fraud led, taken, decoyed, enticed away, or detained as aforesaid;—*Felony*; *Transportation for seven years, or imprisonment, with or without hard labour, not exceeding two years; and if a male, to be once, twice, or thrice publicly or privately whipped (if the court shall think fit) in addition to the imprisonment.*

Chimneys and Chimney Sweepers.

APPRENTICES.—By 4 & 5 Will. 4, c. 35, s. 2, no child under the age of ten years shall be bound apprentice to a chimney sweeper.

By *sect. 3*, no chimney sweeper, who shall not be a housekeeper, and rated to the poor's rate, or assessed for payment of taxes, shall take an apprentice, or employ any child under fourteen years of age.

By *sect. 6*, every chimney sweeper, having in his service any apprentice under fourteen years of age, shall provide for him a leather cap, to be worn by the boy when out upon his duty, having a brass

plate set on the front, with the names of the master and apprentice, and the date of the indenture of apprenticeship engraved thereon;—Penalty for neglect, not exceeding 5*l.*, nor less than 40*s.*

By *sect. 7*, no chimney sweeper shall hire, use, retain, or employ any child *under fourteen*, other than an apprentice bound according to the provisions of the act, and such boys as shall be upon trial, as thereafter provided;—*Penalty*, not exceeding 10*l.*, nor less than 40*s.*

By *sect. 8*, any person requiring or compelling any apprentice or person of any description to *ascend a chimney flue, for the purpose of extinguishing fire therein*, is declared guilty of a *misdemeanor*.

By *sect. 9*, every *binding* of a child as an apprentice, whether by a parish officer, or by the parent or next friend of the child, and also every assignment of such apprentice, must be with the consent of *two* justices, to be signified under their hands, indorsed on the indenture or assignment; such indenture and consent to be according to the forms in the schedule; otherwise the same shall be void.

By *sect. 10*, the *age* of the child must be inserted in the indenture.

By *sect. 11*, no chimney sweeper shall let out to hire to any other person, for the purpose of chimney sweeping, any child who is an apprentice.

By *sect. 12*, before any boy is bound an apprentice, the intended master may have him *upon trial* not exceeding two calendar months, provided the boy, with his parent, next friend or guardian, or parish officer, and such intended master, shall go before *two* justices, and register with their clerk the name and residence of the intended master, and the name, residence, and age of the boy, and the names and residences of the parties accompanying the boy, and also the intended period of trial, and provided the boy shall be of the full age of ten years.

By *sect. 13*, where a boy has been upon trial, the justices are to ascertain from such boy whether he is willing to follow the business, and to be bound to such master; and in case he should be unwilling, the justices are required to refuse to sanction the binding.

By *sect. 14*, no master shall have more than *two* boys *on trial*, nor more than *four* apprentices.

By *sect. 15*, no master, journeyman, servant, or apprentice of any chimney sweeper shall *call or hawk the streets*, under a penalty not exceeding 40*s.*

By *sect. 16*, if any master shall misuse or evil-treat his apprentice, or if the apprentice shall have just cause to complain of the breach of

any of the covenants in the indenture of apprenticeship on the part of the master, the master on conviction shall forfeit not more than 10*l.*, nor less than 40*s.*

Proceedings on conviction.—By *sect. 17*, any *two* justices may hear and determine all complaints, either against the master, or the apprentice, and make such orders therein as any justice or justices may lawfully do in other cases between masters and apprentices.

By *sect. 19*, *convictions* are to be by *two justices*, on oath of *one witness*; and by *sect. 20*, all penalties are leviabie by distress by warrant of *two justices*, and to be paid half to the informer, and half to the overseers of the parish where the master shall dwell.

By *sect. 21*, the justices may adjudge that the party convicted shall *pay the penalty* either immediately, or within a limited period, and that in default of payment the party shall be imprisoned in the common gaol or house of correction, with hard labour,—for not more than *two calendar months*, where the penalty with the costs shall not exceed 5*l.*,—and for not more than *three calendar months* in any other case.

By *sect. 22*, inhabitants of any parish may be *witnesses*; and by *sect. 23*, distress not to be deemed unlawful, for want of form; nor a plaintiff in an action to recover for any irregularity, if tender of sufficient amends be made.

By *sect. 24*, where the sum adjudged to be paid on any conviction shall exceed 5*l.*, or the imprisonment one calendar month, an *appeal* is given to the next sessions holden not less than twelve days after the day of conviction, upon giving to the complainant notice within three days after conviction, and seven clear days before the sessions; and the party must either remain in custody until the sessions, or enter into a recognizance with two sufficient sureties to try the appeal, and abide the judgment of the court.

By *sect. 25*, no conviction to be quashed for want of form, or to be removed by *certiorari*; and no warrant of commitment to be void for any defect therein, provided it be alleged that the party has been convicted, and there be a good and valid conviction.

By *sect. 26*, this act was to continue in force until the 1st January, 1840, and from thence until the end of the then next session of parliament; and by 3 & 4 Vict. c. 85, s. 1, it was further continued to the 1st July, 1842.

1. *Form of the Indenture of Apprenticeship, as prescribed by the 9th section of the Act(s).*

This indenture, made the — day of —, in the — year of the reign of our Sovereign Lady Victoria, by the grace of God of the united kingdom of Great Britain and Ireland Queen, defender of the faith, and in the year of our Lord —, between A. B. and C. D., churchwardens and overseers of the poor of the parish of —, in the county of — [or “E. F.” *the father, or next friend of the boy to be placed out, as the case may be*], of the one part, and L. M. of number — in — street, in the parish of —, in the county of —, chimney sweep, of the other part: Witnesseth, that the said churchwardens and overseers of the poor [or “the said E. F.,” *as the case may be*], by and with the consent and approbation of G. H. and I. K., two of her Majesty’s justices of the peace acting in and for the county [or “stewartry, riding, city, town, borough, division, or place,” *as the case may be*], signified as hereunder written, have put and bound, and by these presents do put and bind, N. O., of the said parish [or “township,” or “place”], being of the age of — years, to be apprentice to the said L. M., he having now — other apprentices, and no more [*as the case may be*], to learn the trade or business of a chimney sweep, and with him [or “her”] to dwell, remain, and serve from the day of the date of these presents, for and during the term of — years from hence next ensuing, fully to be complete and ended; during all which time he the said N. O., as such apprentice, his said master [or “mistress”] faithfully shall serve and obey, his [or “her”] secrets keep, and his [or “her”] lawful commands everywhere gladly do and perform; he shall not haunt alehouses or gaming houses, nor absent himself from the service of his said master [or “mistress”] day or night without his [or “her”] leave, but in all things as a faithful apprentice shall behave himself towards his said master [or “mistress”] and all his [or “her’s”] during the said term: And the said L. M., in consideration of the good will which he [or “she”] hath and beareth towards the said apprentice, and of the faithful service so to be performed by him, doth hereby covenant, promise, and agree with the said churchwardens and overseers of the poor [or “the said E. F.,” *as the case may be*], that he [or “she”] the said N. O. his [or “her”] said apprentice, in the trade or business of a chimney sweep, which he [or “she”] now useth, shall and will teach and instruct, or cause to be taught and instructed, in the best manner that he [or “she”] can, and shall and will provide and allow unto the said apprentice, during all the said term, competent and sufficient meat, drink, washing, lodging, apparel, and all other things necessary for the said apprentice: And that the said L. M., — executors, administrators, or assigns, shall not nor will assign over this present indenture, or the apprentice bound thereby, without the consent and approbation in writing of two or more such justices of the peace, to be signified according to the form of the approbation hereunder written: And whereas, from the nature of the business or employment of a chimney sweep, it is necessary for the boys employed in climbing to have a dress particularly suited to that purpose, which dress is only fit for that part of the occupation, the said L. M. doth hereby also covenant, promise, and agree to and with the said churchwardens and overseers of the poor [or “the said E. F.,” *as the case may be*], to find and allow such suitable dress for the said apprentice as often as need or occasion shall be and require, and provide for and deliver to the said apprentice, once in every year at least during the term aforesaid, over and above the said dress proper for climbing,

(s) See *ante*, p. 143.

one whole and complete suit of clothing, with suitable linen and stockings, cap or hat, and shoes; and further that the said L. M. shall and will, at least once in every week, cause the said apprentice to be thoroughly washed and cleansed from soot and dirt; and shall and will require the said apprentice to attend the public service of God on the Sabbath day, and permit and allow him to receive the benefit of any other religious or useful instruction; and that the said apprentice shall not wear his sweeping dress on that day; and that the said L. M. shall not nor will compel, or oblige or permit the said apprentice to call the streets; and further, shall not nor will compel or oblige the said apprentice to exercise his business between the hours of eight at night and four o'clock in the morning, from the first day of November to the last day of March inclusive, nor shall the said L. M., or any person or persons whomsoever by his [or "her"] directions, require or force him the said apprentice to climb or go up any chimney which shall be actually on fire, or make use of any violent or improper means to climb or go up any chimney, but shall in all things treat his [or "her"] said apprentice with care and humanity.

2. *Form of Approbation by the Justices.*

We, G. H. and I. K., esquires, two of her Majesty's justices of the peace, acting in and for the county [or "stewartry, riding, city, town, borough, division, or place," *as the case may be*], having inspected and examined the within-named N. O. [*the boy to be placed out or assigned over*], and it having been proved to our satisfaction that he is of the age of ten years and upwards, do hereby consent to and approve of his being bound [or "assigned over"] as an apprentice to the within-named L. M. [*the master or mistress*] according to the terms and stipulations expressed in the within-written indenture.

Some very important provisions, however, in regard to chimney sweepers, have been enacted by the recent statute of 3 & 4 Vict. c. 85. By *sect. 2* of that statute it is declared, that from and after the 1st July, 1842, any person who shall compel or knowingly allow any child, or young person under the age of twenty-one years, to ascend or descend a chimney, or enter a flue, for the purpose of sweeping, cleaning, or coring the same, or for extinguishing fire therein, shall be liable to a penalty not more than 10*l.*, or less than 5*l.*

Age of Apprentice.—By *sect. 3* it is declared unlawful, from and after the passing of the act, to apprentice to a chimney sweeper any child under the age of sixteen years; and every indenture of such apprenticeship is declared to be void.

Children apprenticed after 1st July, 1841.—By *sect. 4*, upon the application of any child, apprenticed to any chimney sweeper at any time after the 1st July 1841 and previously to the 1st July 1842, to any justice of the peace having jurisdiction where the master or mistress of such child shall reside, the justice may summon the master or mistress to appear at a reasonable time to be named in the summons, not being sooner than seven days from the time of granting it, before any two justices, and upon proof made upon oath to the satisfaction of the justices that such apprentice is desirous of being

discharged, the justices may forthwith discharge such apprentice by warrant under their hands and seals ; for which warrant no fees shall be paid, and no writ of *certiorari* or other process shall issue to remove any proceedings.

Children under sixteen.—By *sect. 5*, from and after the 1st July, 1842, all existing indentures of apprenticeship to the trade or business of a chimney sweeper, of any child who shall then be under the age of sixteen years, shall be null and void.

Construction of Chimnies.—By *sect. 6*, for the better security from accidents by fire, or otherwise, all withs and partitions between any chimney or flue, thereafter to be built or rebuilt, are directed to be of brick or stone, and at least equal to half a brick in thickness ; and every breastback, and with, or partition of any chimney or flue, thereafter to be built or rebuilt, shall be built of sound materials, and the joints of the work well filled in with good mortar or cement, and rendered or stuccoed within. Every chimney or flue thereafter to be built or rebuilt in any wall, or of greater length than four feet out of the wall, not being a circular chimney or flue twelve inches in diameter, shall be in every section of the same not less than fourteen inches by nine inches. No chimney or flue shall be constructed with any angle therein, which shall be less obtuse than an angle of one hundred and twenty degrees, except as thereafter excepted ; and every salient or projecting angle in any chimney or flue shall be rounded off four inches at the least ; upon pain of forfeiture by every master builder or other master workman, who shall make or cause to be made such chimney or flue, of not less than 10*l.*, nor exceeding 50*l.* But chimnies or flues may be built at angles with each other of ninety degrees and more, if they have proper doors or openings not less than six inches square.

Recovery of penalties.—By *sect. 7*, all convictions for penalties may be had before two justices of the peace where the offence shall happen ; and such penalties, and the costs and charges attending the recovery thereof, may be levied by distress and sale of the goods and chattels of the offender, by warrant under the hands and seals of two justices, upon conviction of the offender by the oath of one witness ; one half to be paid to the informer, and the other to the overseers or managers of the poor of the place where the offender shall dwell and inhabit, to be applied in aid of the poor rate.

Imprisonment for default.—By *sect. 8*, the convicting justices may adjudge that the party shall pay the penalty, together with costs,

either immediately, or within such period as they shall think fit; and in default of payment at the time appointed, such person shall be imprisoned in the common gaol or house of correction, with or without hard labour, not exceeding two calendar months.

By *sect. 9*, inhabitants of parishes are declared not incompetent witnesses, by reason of their paying rates.

By *sect. 10*, no distress is to be deemed unlawful for want of form; and there is the usual provision for the tender of amends by a defendant in any action brought against him for any thing done under authority of the act.

By *sect. 11*, an appeal is given to any party aggrieved, to the next sessions holden not less than twelve days after the conviction.

By *sect. 12*, no conviction is to be quashed for want of form.

3. *Conviction under the 3 & 4 Vict. c. 85, s. 2, for allowing a Child to climb a Chimney.*

Middlesex, } Be it remembered, that on the — day of —, at —, in the
to wit. } county of —, A. B. of —, in the county aforesaid, yeoman, personally came before J. P., esquire, one of her Majesty's justices of the peace for the said county, and informed the said justice, that C. D. of —, in the county aforesaid, chimney sweeper, on the — day of —, in the year aforesaid, at —, in the said county, did compel and knowingly allow one E. F., then and there being under the age of twenty-one years, that is to say, of the age of ten years, to ascend a certain chimney belonging to the house of G. H., esquire, situate at —, aforesaid, for the purpose of sweeping and cleaning the same, contrary to the form of the statute in such case made and provided: Whereupon the said C. D., after being duly summoned to answer the said charge, appeared this day before us, the said J. P. and W. O., esquires, another of her Majesty's justices of the peace for the said county, and having heard the charge contained in the said information, declared that he was not guilty of the said offence, whereupon we, the said justices, did proceed to examine into the truth of the charge contained in the said information; and one M. R., a credible witness, now upon his oath, deposeth and saith, in the presence of the said C. D., that the said C. D., on last Wednesday morning, the — instant, did order and command the said E. F. to climb up the kitchen chimney of the house of G. H., esquire, at — aforesaid, for the purpose of sweeping the same, and that the said E. F. remained in the said chimney for more than five minutes: Therefore it manifestly appearing to us, the said justices, that the said C. D. is guilty of the offence charged upon him in the said information, we, the said justices, do hereby convict him of the offence aforesaid, and do declare and adjudge that he the said C. D. hath forfeited the sum of 5*l.* of lawful money of Great Britain, for the offence aforesaid, one half of the said sum to be paid to A. B., the informer, and the other half thereof to be paid to the overseers of the poor of the parish of —, where the said C. D. doth inhabit and dwell, to be by them applied in aid of the rate for the relief of the poor of the said parish, according to the form of the statute in that case made and provided. Given under our hands and seals, this — day of —, in the year of our Lord 1842.

J. P. (L. S.)
W. O. (L. S.)

4. *Discharge of an Apprentice, under the 3 & 4 Vict. c. 85, s. 4, who was bound after the 1st July, 1841, and before the 1st July, 1842.*

Middlesex, } Whereas A. B., of —, in the county aforesaid, a child of the age of
to wit. } twelve years, on the — day of —, applied to me, J. P., esquire, one
of her Majesty's justices of the peace for the said county, and informed me that he the
said A. B., after the 1st day of July, 1841, and previously to the 1st day of July, 1842,
to wit, on the — day of —, was apprenticed to C. D., of —, aforesaid, then and
there and now using the trade or business of a chimney sweeper; whereupon I, the
said A. B., having jurisdiction where the said C. D. resides, issued my summons to the
said C. D. to appear before me and W. O., esquire, another of her Majesty's justices
of the peace for the said county, having jurisdiction as aforesaid, at a reasonable time
named in such summons, the same not being sooner than seven days from the time of
granting such summons: And whereas the said C. D. hath appeared this day before us,
the said justices, in pursuance of the said summons, and the said A. B. being now ex-
amined by us in the presence of the said C. D., hath deposed upon oath, to the satis-
faction of us, the said justices, that the said A. B. is desirous of being discharged from
his said apprenticeship: We, the said justices, do therefore by these presents discharge
the said A. B. of and from his said apprenticeship to the said C. D., any thing contained
in the indenture of apprenticeship made between them, or otherwise howsoever, to the
contrary notwithstanding. Given under our hands and seals, this — day of —,
in the year of our Lord 1842.

J. P. (L. S.)

W. O. (L. S.)

Church.

FOR riotously demolishing any church or chapel, see **Riot**.

For stealing from churches, see **Sacrilege**.

For setting fire to them, see **Arson**.

Disturbance of Divine Service.—By 1 Mary, sess. 2, c. 3, s. 2, if any person shall willingly and of purpose, by word or deed, maliciously or contemptuously molest, let, disturb, vex, or trouble, or by any other unlawful ways or means disquiet or misuse any preacher duly licensed, allowed, or authorized to preach, in any sermon, preaching, or collation, that he shall make in any church, chapel, churchyard, or in any other place used, frequented, or appointed to be preached in;—or (by *sect. 3*) if any person shall maliciously, willingly, or of purpose, molest, let, disturb, vex, disquiet, or otherwise trouble, any parson, vicar, parish priest, or curate, or any lawful priest preparing, saying, doing, singing, ministering, or celebrating the mass, or other such divine service, sacraments, or sacramentals, as was most commonly frequented and used in the last year of the reign of King Henry VIII., or that at any time thereafter should be allowed, set forth, or authorized by the Queen's Majesty;—or (by

sect. 4) if any person shall unlawfully or maliciously pull down, deface, spoil, or otherwise break any altar, or any crucifix or cross in any church, chapel, or churchyard;—the offender may be apprehended by the constable or churchwarden, or by any other person then present at the time of the said offence, and (by *sect. 5*) may be brought before some justice, who is required to commit him forthwith, and in conjunction with another justice within six days to examine the offence; and (by *sect. 6*) if they find him guilty by proof of two witnesses, they are to commit him to gaol for three months, and further to the next quarter sessions, when he is, upon repentance, to be discharged, finding surety for his good behaviour for a year.

By *sect. 7*, persons rescuing offenders, or hindering such arrest, shall suffer like imprisonment, and pay a fine of 5*l.* for each offence.

Although the Roman Catholic Religion was predominant when this statute was made, yet the disturbance of a minister in performing the present service of the Church of England, is within its provisions (*t*).

By 1 W. & M. c. 18, s. 18, if any person shall willingly, and of purpose, maliciously or contemptuously come into any cathedral, or parish church, chapel, or other congregation permitted by that act, and disquiet or disturb the same, or misuse any preacher or teacher; such person, upon proof thereof by *two witnesses* before any justice of the peace, shall find two sureties to be bound in the penal sum of 50*l.*, or in default shall be committed to prison till the next sessions, and if convicted at the sessions, he shall suffer the penalty of 20*l.*

Offence of not going to Church.—By 1 Eliz. c. 2, s. 14, every person, having no lawful or reasonable excuse to be absent, shall endeavour to resort to his parish church or chapel, or upon reasonable let thereof, to some usual place where common prayer shall be used, upon every Sunday, and other days ordained and used to be kept as holy days, upon pain of punishment by the censures of the church, and also upon pain that he shall forfeit for every such offence 12*l.*, to be levied by the churchwardens, for the use of the poor, by distress.

By 3 Jac. 1, c. 4, s. 27, one justice, upon the oath of one witness, may call the party before him, and if he shall not make a sufficient excuse to the satisfaction of the justice, the justice may grant a war-

(*t*) 1 Hawk. c. 63, s. 31.

rant to the churchwarden to levy 12*d.* for every such default by way of distress, for the use of the poor; and in default of distress the justice may commit the offender to prison. But by *sect. 28*, no man is to be impeached for this cause, except within one month after his default.

But by the Toleration Act, 1 W. 3, c. 18, s. 1, the above enactment is not to extend to any person dissenting from the Church of England, who shall take the oaths of allegiance and supremacy, and make and subscribe the declaration against popery therein mentioned.

Church Rate.

BY 53 Geo. 3, c. 127, s. 7, if any person refuse payment of a church rate duly assessed upon him, and the validity of which has not been questioned in any Ecclesiastical Court, one justice may by warrant under his hand and seal, and upon complaint of the churchwarden, convene him before *two justices*, who are to examine into the merits of the complaint, and by order under their hands and seals direct the payment of what is due, so as the sum do not exceed 10*l.*, over and above the costs; which, upon refusal to pay, may be levied by distress, subject to the right of appeal to the sessions. But if the validity of the rate, or the liability of the party to pay it, be disputed, and the party give notice thereof to the justices, they shall forbear giving judgment.

A party summoned may give the justices notice that he disputes the validity of the rate, or his liability to pay the same, although no proceeding is commenced in the Ecclesiastical Court, if he assigns a *bonâ fide* reason for his objection to the rate (*u*). But a mere statement to the justices by the party complained of, that he disputes the rate, and that he has entered a *caveat* against its allowance in the Ecclesiastical Court, does not deprive the justices of jurisdiction; for they may still hear and examine, to ascertain whether the rate is *bonâ fide* disputed (*v*). If, however, the rate has been actually disputed in the Ecclesiastical Court, then, notwithstanding the rate has been there confirmed, it would seem that the justices have no jurisdiction (*x*).

By the 54 Geo. 3, c. 170, s. 12, the goods of the party neglecting to pay the rate for the church of any district, for seven days after

(*u*) *R. v. Milnrow*, 5 M. & S. 248.

(*v*) *R. v. Wrottesley*, 1 B. & Adol. 648.

(*x*) *R. v. Sillifant*, 4 Adol. & E. 354;

and see *Bodenham v. Ricketts*, *ib.* 433.

demand may be distrained, not only within the district, but also within any other district within the same county; and if sufficient distress cannot be found in such county, then upon oath thereof made before one justice of any other county, in which any goods of such person shall be found, and such justice indorsing his name on the distress warrant, the goods of the party are liable to be distrained in such other county.

By the 7 & 8 Geo. 4, c. 17, the provisions of the 57 Geo. 3, c. 93, regulating the costs of distresses for rent, are extended to distresses for church rates; for which see *post*, title **Landlord and Tenant**.

1. *Complaint by Churchwarden, in order to ground a Distress for a Church Rate.*

Kent, } Be it remembered, that on the — day of —, in the year of our Lord
to wit. } 1842, at —, in the county of —, A. B., one of the churchwardens of
the parish of — in the said county, personally cometh before me, J. P., esq., one of
her Majesty's justices of the peace for the said county, and on his oath saith, that C. D.
of &c. in the said county, hath refused and neglected, and still doth refuse and neglect,
to pay to the churchwardens of the said parish, or either of them, or any person autho-
rized to receive the same, the sum of —, being the sum to which the said C. D. is
duly rated and assessed, in the churchwardens' rate for church rates, and made the
— day of — last, the validity of which said rate hath not been questioned in any
Ecclesiastical Court, and which sum is now justly due from the said C. D. unto them
the said churchwardens*, and that they ought to collect and receive the same, and the
said A. B. prayeth justice in the premises, and that the said C. D. may be summoned
to answer the same.

Sworn before me, J. P., on &c.

J. P.

2. *Summons thereon.*

Kent, } To E. F., constable of —, and to all constables and others her Majesty's
to wit. } officers of the peace for the county of —.

Whereas information and complaint have been made before me, J. P., esq., one of
her Majesty's justices of the peace for the said county, by A. B., one of the church-
wardens of the parish of — in the said county, that C. D. of &c. hath refused and
neglected, and still &c. [*proceed as in the first precedent to the asterisk, and then thus*]:
These are therefore to require you forthwith to summon the said C. D. to appear before
me, and such other justices of the peace for the said county as shall be then present,
at — in the said county, on the — day of —, at the hour of — in the fore-
noon of the same day, to answer unto the said information and complaint, and to be
further dealt with according to law; and be you then there to certify what you
shall have done in the premises. Given under my hand and seal at — in the said
county, the — day of —, 1842.

J. P.

3. *Order thereon.*

Kent, } Whereas information and complaint have been made unto me, J. P.,
to wit. } esq., one of her Majesty's justices of the peace in and for the said county,
by A. B., one of the churchwardens of the parish of — in the said county, that

C. D., of — in the county aforesaid, hath refused and neglected, and still &c. [*proceed as in the first precedent to the asterisk, and then thus*]: And whereas by warrant under the hand and seal of me the said J. P., the said C. D. hath been duly summoned and convened before me the said J. P., and M. N., esquire, another of her Majesty's justices of the peace in and for the said county, the same being the county where the church is situated in respect whereof the said rate had been made, and being neither of us patrons of the said church, nor any way interested in any of the rights, dues, or other payments belonging to the said church.* And whereas the said C. D., having been so summoned, appeared before us the said justices on the — day of — instant, at — in the said county, and heard the complaint aforesaid; we the said justices, therefore, having considered the premises, and having also duly examined into the merits and truth of the said complaint upon oath, do find that there is justly due the aforesaid sum of — from the said C. D. to the churchwardens of the said parish; and we do order and direct the aforesaid C. D. to pay, or cause to be paid, the same unto the said A. B., so being one of the said churchwardens as aforesaid, together with the further sum of — for such costs and charges concerning the premises, as upon the merits of the cause do appear to us to be just and reasonable. Given under our hands and seals at — in the said county, the — day of —, in the year of our Lord 1842.

4. Warrant to levy.

Kent, }
to wit. } To C. W., the constable of —, and others whom this may concern.

Whereas information and complaint have been made unto me, J. P., esq., &c. [*proceed as in the last precedent to the asterisk, and then thus*]: And whereas we the said justices, having duly considered the premises, and having also duly examined into the merits and truth of the said complaint upon oath, did on &c., at &c., by an order in writing under our hands and seals, order and direct the said C. D. to pay unto the said A. B., so being one of the churchwardens of the said parish as aforesaid, the sum of —, duly rated and assessed to the said C. D. in the churchwardens' rate for church rates, and justly due unto the said churchwardens, and also the sum of — shillings for the costs and charges of the said A. B. in recovering the same, making in the whole the sum of —: And whereas it appeareth unto us, upon the oath of —, of —, that the said C. D. hath had due notice of the said order, but hath refused and neglected, and still doth refuse and neglect, to pay, and hath not paid, the said sum of —, or any part thereof,

These are therefore to authorize and command you, that you do forthwith levy the aforesaid sum of —, by distress and sale of the goods and chattels of the said C. D., and out of the money arising from such sale that you do pay, or cause to be paid, unto the said A. B. the said sum of —, and thereout also deduct your necessary charges of distraining; and if any overplus shall remain, after such payment and deduction as aforesaid, that you do render the same unto the said C. D.

Given under our hands and seals, this — day of —, A.D. 1842.

Coals.

FOR stealing from, or injuring coal-mines, see *post*, *Mines*.

For firing them, see *Arson*.

Removing or altering Marks on Keels or Carts.—By 6 & 7 W. 3, c. 10, for the better admeasurement of keels and keel-boats in the port of *Newcastle-upon-Tyne*, and the numbers thereunto belonging, it is enacted by *sect. 7*, that if after the admeasuring, marking, and nailing of any keel, boat, wain, or cart, according to the directions of that act, the mark shall be removed or altered, every person who shall have a hand in, or be privy to the doing thereof, and shall, on proof thereof by one witness before *one justice*, be convicted thereof, he shall forfeit 10*l.*, to be levied by distress; in default of which he may be committed to the common gaol for three months; one half of the forfeiture to the king, and the other to the person making the discovery.

By 31 Geo. 3, c. 36, s. 1, if any of the nails or marks placed in or on any keel, pan-keel, pan-boat, or other boat, wain, or cart, shall be removed by accident or design, the same shall not be again used in the removal or carriage of coals, until it shall have been re-admeasured, marked, and nailed; under the penalty of forfeiting the boat, or cart, together with the coals loaded therein.

By *sect. 4*, if any person shall wilfully or designedly remove, deface, or destroy such marks or nails, as by order of the commissioners appointed by virtue of the former act shall be put upon any keels, pan-keels, pan-boats, or other boats, wains, or carts, or cause the same to be done, he is liable, on conviction before any justice upon the oath of one witness, to a penalty not exceeding 5*l.*, nor less than 40*s.*, or in default thereof to be committed to the house of correction nearest the place where the offence shall have been committed, for not more than one month, nor less than seven days.

Fixing the Price in certain places.—By 17 Geo. 2, c. 35, s. 1, three justices may set the prices of coals, called sea-coals, brought by sea into any river, creek, or port, and sold by retail, after landing in any place to which the statute of 16 & 17 Car. 2, c. 2, (respecting the price of coals brought into the river *Thames*) does not extend, as they shall judge reasonable, allowing a competent profit to the retailer beyond the price and charges paid by him. And if an ingrosser or retailer of such coals shall refuse to sell as aforesaid, then the justices shall appoint some officer or other persons to enter into any place

where such coals are stored up, and in case of refusal, (taking a constable,) to force entrance, and to sell the coals at such rates as the justices shall judge reasonable. And if any action shall be commenced against the justices, or any person, for any thing done in pursuance of the act, the defendant may plead the general issue, and give the special matter in evidence, and if a verdict be found for the defendant, he shall recover damages, and treble costs.

Misbehaviour of Colliers and Miners.—By 39 & 40 Geo. 3, c. 77, s. 3, if any person shall enter into any contract in writing to get any coal, culm, iron stone, or iron ore, and shall wilfully and to the prejudice of the owner, raise, get, or work the same in a different manner to his contract, and against the will of the owner or his agent, or shall refuse to fulfil his engagement, he shall, on conviction, upon the oath of *one witness* before *one justice*, forfeit not exceeding 40s., with costs, and on non-payment he may be committed to the common gaol not exceeding six months, and the contract shall thereupon become void.

By *sect. 4*, if any person shall work or stock any coal, or iron stone, or ore, in any false or fraudulent manner, with intent to deceive his employer, or to defraud the person who raised the same, he shall, on conviction, on the oath of *one witness* before *one justice*, be committed to the common gaol or house of correction not exceeding three months.

By *sect. 5*, if any person shall steal any coal, culm, coke, wood, iron, ropes, or leather, not exceeding the value of 5s. from any place belonging to any coal-dealer, or from any boat, barge, waggon, cart, or other carriage carrying the same; or shall steal, break, destroy, damage, or embezzle any tools or implements for getting coals or minerals, not exceeding the above value; and shall, on the complaint of the owner or his agent, be convicted, on the oath of *one witness* before *one justice*, he shall for the first offence forfeit not exceeding 10s., with costs, and upon non-payment shall be committed to the house of correction to hard labour for one month; for the second offence, not exceeding 20s., with costs, and on non-payment to be committed to the house of correction to hard labour for three months; and for any further offence, not exceeding 40s., with costs, and on non-payment the like commitment for six months.

By *sect. 6*, half of the penalty is to go to the informer, and half to the poor; and by *sect. 7*, the evidence of any inhabitant of the parish is admissible.

By *sect. 9*, all prosecutions must be within nine calendar months after the offence; and *sect. 10* gives an *appeal* to the sessions; but no proceedings are to be quashed for want of form, and no *certiorari*.

Regulations for the Vend and Delivery of Coals in the Metropolis, and twenty-five miles from the General Post Office.

Coals to be sold by Weight.—By 1 & 2 Will. 4, c. lxxvi. s. 43, all coals, cinders, and culm, which shall be sold out of any ship or vessel in the port of London, or within the cities of London and Westminster, or within twenty-five miles from the General Post Office, shall be sold *by weight*, and not by measure.

Selling one sort for another.—By *sect. 45*, if any seller or dealer shall knowingly sell one sort of coals for a sort which they really are not, he shall forfeit 10*l.* for every ton so sold, not exceeding twenty-five tons, and so in proportion for a smaller quantity.

Not delivering Seller's ticket.—By 1 & 2 Vict. c. ci. s. 3, with any quantity exceeding 560 pounds, delivered by any cart, waggon, or other carriage, the seller shall deliver to the purchaser, or his agent or servant, immediately on the arrival of the cart, waggon, or craft in which the coals shall be sent, and before any of them shall be unloaded, a ticket according to the form specified in the schedule;—*Penalty* for default, not exceeding 20*l.* And in case the carman, or other person attending the waggon or cart, to whom any such ticket shall have been given by the seller, refuse or neglect to deliver such ticket, he also forfeits not exceeding 20*l.* But coals delivered to any seller or dealer, or to any person purchasing them at the coal market, may be delivered without such ticket.

By *sect. 4*, with any quantity exceeding 560 pounds, delivered by any lighter, vessel, barge, or other craft, the seller shall in like manner deliver to the purchaser on the arrival of the craft, and before the unloading of any other of the coals, a ticket setting forth in words at length the number of tons, and the name of the coals, together with the name and number of the craft, and the name of the seller, and also the name of the lighterman. In case of any default, the like penalty, not exceeding 20*l.*, is imposed both on the seller, and the person having the charge of the coals; but there is the like exception in regard to coals delivered to any seller or dealer, or to any person purchasing them at the coal market.

Sacks to contain a certain quantity.—By 1 & 2 Will. 4, c. lxxvi. s. 43, all coals sold from any lighter, barge, or other craft, or from any

wharf, warehouse, or other place, in any quantity exceeding 560 pounds, except coals carried and delivered in bulk, shall be carried and delivered to the purchaser in sacks containing either 112 pounds each, or 224 pounds. But coals delivered by gang labour may be conveyed in sacks containing any weight.

As to delivery in bulk.—By *sect. 49*, where the coals exceed 560 pounds, they may be delivered in bulk, provided the weight of the cart, as well as of the coals, shall be previously ascertained, and such weight specified in the seller's ticket. And if any seller shall deliver the coals, without having a weighing machine fixed up on his wharf or place, or without previously ascertaining the weight of the cart and the coals, he shall forfeit not exceeding 50*l*.

By *sect. 50*, the carman or driver shall, in case he shall be required by the purchaser, weigh the waggon, with or without the coals therein, at any public weighing machine on the road between the place from which the coals shall be brought and the place of delivery, or within one hundred yards from such road. Penalty for refusal, not exceeding 10*l*. But the carman is not obliged to weigh the waggon without the coals, until after the coals are delivered; and he is not compellable to return to any such public weighing machine after he shall have passed it.

By *sect. 51*, if on a delivery in bulk a less quantity is delivered than shall be expressed in the ticket, the seller forfeits not exceeding 10*l*.; and if the deficiency exceeds 224 pounds, then he is liable to forfeit not exceeding 50*l*.

Carman to carry a Weighing Machine.—By *sect. 52*, if any carman shall not have placed in, on, or under his cart or waggon a perfect weighing machine, marked at Guildhall by the proper officer there, he is liable to a penalty not exceeding 10*l*., and the seller of the coals to a penalty not exceeding 20*l*. But coals conveyed in bulk, or in any cart or waggon belonging to the purchaser, may be carried without any weighing machine.

By 1 & 2 Vict. c. ci. s. 5, no weighing machine shall be deemed perfect, unless proper weights are carried therewith. But any other just balance, with an even beam and legal weights, shall be deemed a perfect weighing machine, without having been marked at Guildhall. Any carman, placing in, on, or under his cart or waggon, any beam or scales, or other weighing machine, or any weights which shall be imperfect, or improper for denoting the weight of coals, is liable

to a penalty not exceeding 5*l.*, and the seller to one not exceeding 10*l.*

Carman to weigh the Sacks.—By 1 & 2 Will. 4, c. lxxvi. s. 54, the carman, where the coals are carried in sacks for delivery to the purchaser, must weigh, if required, any one or more of the sacks which may be chosen by the purchaser, with the coals therein, and must also afterwards weigh such sack, without any coals therein.

By *sect. 55*, if the carman shall neglect or refuse to weigh any such sack of coals, or if he shall drive away, or permit or suffer the cart or waggon to be driven away, without weighing such sack, or shall hinder, obstruct, or otherwise prevent the purchaser, or his servant, or any other person, from examining the machine, or weighing all or any of the sacks of coals, he is liable to a penalty not more than 20*l.*, nor less than 5*l.* But by 1 & 2 Vict. c. ci. s. 6, so much of the enactment as relates to the hindering of any person, *other than the purchaser or his servant*, is repealed.

By *sect. 56*, if the purchaser, on requiring any sack of coals to be weighed, shall find them deficient in weight, and shall signify his desire to the carman to have all or any part of the coals weighed or re-weighed in the presence of some constable, or other indifferent and credible person, then the carman is required to remain at or before the house of the purchaser with such coals and the cart or waggon, until the coals are weighed; and if he shall drive away before, he is liable to a penalty not exceeding 20*l.*

Penalty for refusal to weigh, or for deficiency in weight.—By *sect. 57*, upon the purchaser procuring the attendance of a constable, or other indifferent and credible person, all the sacks, both with and without the coals, shall accordingly be weighed by the carman in the presence of the purchaser, and of such constable or other person; and in case the purchaser shall not attend for that purpose, then the carman may proceed to weigh in his absence. If the carman refuses or neglects to weigh, he forfeits not exceeding 10*l.*, and the constable or other person may then weigh the sacks; and in case any of the sacks are deficient in weight, the seller is liable to a penalty not exceeding 5*l.* for every sack so deficient.

Where quantity sold less than 560 pounds.—By *sect. 58*, all coals sold in the quantity of 560 pounds, or less, must be weighed previous to being delivered, and in the presence of the purchaser, if so required by him, under a penalty not exceeding 5*l.*

Weighing Machine to be kept at Police Stations.—By *sect. 59*, a proper weighing machine shall be kept at every police station, or at any other place appointed by two justices of the peace, which shall be provided and kept in repair by the overseers of the parish in which the station is situate, and may be used in the parish for weighing coals, respecting which there may be any dispute. And if the overseers shall not provide and send such a machine, or shall not cause it to be repaired, or a new machine to be provided within seven days after notice to them of the want thereof in writing being left at their usual places of abode by any police officer, or any inhabitant of the parish, the overseers are liable to a penalty not exceeding 10*l*.

Ships breaking bulk before payment of Duties.—By *sect. 70*, if the bulk of any ship or vessel laden with coals, cinders, or culm, liable to the duties imposed by the act, shall be broke, or any of such coals, &c. unladen, before such duties shall have been paid, the master or owner of the vessel shall forfeit not exceeding 25*l*.

Penalty on Clerk of the Coal-market.—By *sect. 71*, the clerk of the coal-market must, within seven days after payment of the rates or duties upon any such ship or vessel, transmit to the coast office at the Custom House, London, a return stating the name of the ship, and the tonnage upon which the duties have been paid, under a penalty not exceeding 25*l*.

Penalty for evading payment of Duties.—If the master or owner of any ship, or the owner or factor of any coal, shall by any means whatsoever clude, evade, or avoid the payment of the rates or duties, he shall forfeit to the corporation of London a sum equal to the amount of such duties, and shall also stand charged with the payment of such duties, which, as well as the forfeiture thus incurred, may be recovered either by the means therein prescribed for levying such duties, or in such manner as is afterwards directed for levying and recovering the penalties imposed by the act, and with the like costs.

Penalty for not registering Fitter's Certificate.—By *sect. 75*, if the person who ought to register and file the certificate of the fitter as to the quantity and quality of the coals, shall neglect to register it for twenty-four hours after the delivery of it at the proper office, or shall make a false entry of it, or refuse to produce and show such certificate and registry thereof to any person coming between the hours of twelve and two to see and inspect the same, and take extracts therefrom, he is liable to a penalty not exceeding 5*l*.

Penalty if Coals exceed the quantity in Fitter's Certificate.—By *sect. 76*, in case the quantity of coals in any ship shall exceed the quantity mentioned in the fitter's certificate, or such account or affidavit to the extent of five pounds above every 100 pounds of the coals, then, in addition to the penalty of 100*l.* imposed by the act for giving a false certificate or account, the master of the ship is liable to pay to the inspector by whom the coals shall be weighed not exceeding 3*d.* per ton, which is recoverable in the same manner as is afterwards directed with respect to any penalty imposed by the act.

Recovery and application of penalties.—By *sect. 77*, all penalties (the manner of levying and recovering whereof is not otherwise directed) not exceeding 25*l.* must be sued for within *one* calendar month (by 1 & 2 Vict. c. ci. s. 7, *two* calendar months) after the offence committed, and are recoverable before one justice, who, on information or complaint to him made, may grant a summons or warrant to bring before him any offender. If, on the conviction of the party by the evidence of *one witness*, the penalty is not forthwith paid, it may be levied by *distress*, in default of which commitment to the common gaol or house of correction not exceeding six calendar months. All the penalties to be paid to the overseers for the use of the poor. But by *sect. 79*, the justice may, if he think fit, direct any part of the penalty, not exceeding one half, to be paid to the informer, or persons aiding or assisting in the apprehension of the offenders.

By *sect. 78*, the justice may proceed by *summons*, instead of information in writing.

Expenses of Witnesses.—By *sect. 80*, the justice may direct all or any part of the reasonable expenses of any constable, or other witness, and such compensation for his time and trouble as the justice may think fit, to be paid either by the offender or complainant; which sum is recoverable in the same manner as any penalty.

Recovery of penalties on Carman.—By *sect. 81*, where the penalty imposed on any carman, or the sum directed to be paid to any witness, shall not be forthwith paid on his conviction, it shall be paid by his employer, and shall be recovered in the same manner as any penalty; but the carman is liable to repay it to his employer, to be recovered from him in the same manner.

Appeal—Certiorari.—By *sect. 82*, an *appeal* is given to the next sessions, on giving immediate notice to the justice; but no proceedings are to be quashed for want of form, or to be removed by *certiorari*.

Compelling attendance of Witnesses.—By *sect. 83*, a justice may summon before him any person who shall appear to be a necessary witness; and in default of his appearance, then, upon due proof of the service of the summons, such person is liable to a penalty of 25*l.*, recoverable in the same way as other penalties; and the justice may cause such person to be apprehended by warrant under his hand and seal, and to be brought before him; and wherever such witness shall appear upon summons, or be so apprehended, if he shall refuse to be sworn, or to answer, or to give evidence, the justice may commit him to the common gaol or house of correction for not more than six calendar months.

By *sect. 86*, no *distress* is to be void, for want of form; and by *sect. 87*, a general form of conviction is given.

Actions.—By *sect. 88*, no plaintiff shall recover in an action against any person for any thing done in pursuance of the act, unless notice is given to the defendant twenty-one days before such action; nor shall the plaintiff recover, if tender of sufficient amends hath been made before action brought; and in case no tender hath been made, the defendant is permitted to pay money into court.

By *sect. 89*, all such actions must be brought within three calendar months after the fact committed, and in the county where the cause of action arose; and if the defendant succeeds in the action, he is entitled to double costs.

Wages of persons employed in unloading Colliers.—By 1 & 2 Vict. c. ci. s. 12, every master of a vessel, in which any person, not being part of the regular crew, shall be employed in the discharge or delivery of the coals, shall pay to such person every day before he shall leave the vessel his wages for each day; in default of which, or if the wages are paid at any other place than on board the vessel, the master of the vessel is liable to a penalty not exceeding 10*l.*

By *sect. 1* of this last-mentioned act, after reciting that the term of seven years, during which *the provisions* contained in the 1 & 2 Will. 4, c. lxxvi. were thereby directed to continue in force, would expire on the 31st December, 1838, and that it was expedient that the same should be continued, it is declared that the said act, and all the provisions therein contained (except such as are altered or repealed by the last act), shall be continued for the further term of seven years, from the 31st December, 1838. From this enactment it would appear, as if the *whole operation* of the 1 & 2 Will. 4, was limited for seven years; whereas, by the 60th and 61st section of that act, the

limitation of seven years would seem to apply merely to the restriction of the right of the corporation of London to measure or weigh coals, and the metage duty in respect thereof, and any rates or duties, or other privileges connected with the importation or metage of coals.

Conviction (y) under the 1 & 2 Will. 4, c. lxxvi., s. 57, for Sacks not containing the proper quantity of Coals.

Middlesex, } Be it remembered, that on the — day of —, in the year of our
to wit. } Lord 1842, at —, in the county aforesaid, A. B. of —, in the said
county, coal-merchant, is convicted before me, J. P., esquire, one of her Majesty's
justices of the peace for the said county: For that the said A. B., on the — day of
— instant, at —, in the county aforesaid, sold to one C. D., of —, in the said
county, one ton of coals, to be delivered in ten sacks, containing 224 pounds each, and
to be carried and conveyed to the said C. D., in and by a certain waggon of the said
A. B.; and the said C. D., so being the purchaser of the said coals, and being desirous
that the said coals contained in such waggon as aforesaid should be weighed, then and
there procured the attendance of a police officer to be present at the weighing thereof,
when all the said sacks, both with and without the coals therein, were accordingly
weighed with the proper machine for that purpose by the carman attending such wag-
gon in the presence of the said C. D., so being the purchaser of the said coals, and of
the said police officer; upon which occasion, it manifestly appears to me, the said jus-
tice, upon good proof upon oath now this day had and taken before me, that six of the
said sacks were found, upon such weighing thereof, not to contain in each 224 pounds
net of coals, but that on the contrary thereof one of the said six sacks contained only
201 pounds net of coals, another of the said sacks contained only 207 pounds net of
coals [*specify in the same manner the weight of the remainder*], contrary to an act of
parliament made in the second year of the reign of King William the Fourth, entitled,
“An Act for regulating the vend and delivery of Coals in the Cities of London and
Westminster, and in certain parts of the Counties of Middlesex, Surrey, Kent, Essex,
Hertfordshire, Buckinghamshire, and Berkshire,” whereby the said A. B., the seller of
such coals, has incurred a penalty not exceeding 5*l.* for every such sack of coals that
was so found deficient as aforesaid: Now, therefore, I the said justice do hereby
adjudge that the said A. B. hath forfeited the sum of 30*l.* of lawful money of Great
Britain, being 5*l.* for every sack of coals that was so found deficient as aforesaid, one
half of which said sum of £ —, I the said justice do hereby order to be paid to K. Y.,
the person who informed me (z) of the said offence, and the remaining half to be paid
to the overseers of the poor (a) of the parish of —, in the county aforesaid, where
the same penalties were incurred, for the use of the poor of the said parish. Given
under my hand and seal, the day and year first above written.

J. P. (L. S.)

(y) A general form of conviction is given by the 87th section of the act, which has been strictly followed as far as it goes; but it is too brief and imperfect

to be wholly relied on.

(z) See sect. 79, *ante*, p. 160.

(a) See sect. 77, *ibid.*

Cock-fighting—See Bull-baiting.**Coin.**

COUNTERFEITING *current Gold and Silver Coin.*]—By 2 Will. 4, c. 34, s. 3, if any person shall falsely make or counterfeit any coin, resembling, or apparently intended to resemble or pass for, any of the King's current gold or silver coin;—*Felony; Transportation for life, or not less than seven years; or imprisonment not exceeding four years.* And every such offence shall be deemed to be complete, although the coin so made or counterfeited shall not be in a fit state to be uttered, or the counterfeiting thereof shall not be finished or perfected.

Colouring pieces of Coin or Metal.]—By sect. 4, if any person shall gild or silver, or shall, with any wash or materials capable of producing the colour of gold or silver, wash, colour, or case over any coin whatsoever, resembling, or apparently intended to resemble, or pass for, any of the King's current gold or silver coin;—or if any person shall gild or silver, or shall, with any wash, &c. wash, colour, or case over, any piece of silver or copper, or of coarse gold or coarse silver, or of any metal or mixture of metals respectively, being of a fit size and figure to be coined, and with intent that the same should be coined, into false and counterfeit coin, resembling, or apparently intended to resemble or pass for, any of the King's current gold or silver coin;—or if any person shall gild, or shall, with any wash, &c. wash, colour, or case over, any of the King's current silver coin, or file, or in any manner alter such coin, with intent to make the same resemble or pass for any of the King's current gold coin;—or if any person shall gild or silver, or shall, with any wash, &c. wash, colour, or case over, any of the king's current copper coin, or file, or in any manner alter such coin, with intent to make the same resemble or pass for any of the King's current gold or silver coin;—*Felony; Transportation for life, or not less than seven years; or imprisonment not exceeding four years.*

Impairing the Gold or Silver Coin.]—By sect. 5, if any person shall impair, diminish, or lighten any of the King's current gold or silver coin, with intent to make it pass for the current gold or silver coin;—*Felony; Transportation not exceeding fourteen years, nor less than seven; or imprisonment not exceeding three years.*

Buying or Selling counterfeit Gold or Silver Coin.—By sect. 6, if any person shall buy, sell, receive, pay, or put off, or offer to buy &c. any false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the King's current gold or silver coin, at or for a lower rate or value than the same by its denomination imports, or was coined or counterfeited for;—or if any person shall import into the kingdom from beyond the seas any false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the King's current gold or silver coin, knowing the same to be false or counterfeit;—*Felony; Transportation for life, or not less than seven years; or imprisonment not exceeding four years.*

What shall be deemed counterfeit Coin.—By sect. 21, any of the king's current coin, which shall have been gilt, silvered, washed, coloured, or cased over, or in any manner altered, so as to resemble, or be apparently intended to resemble, or pass for any of the King's current coin of a higher denomination, shall be deemed and taken to be counterfeit coin.

Uttering counterfeit Gold or Silver Coin.—By sect. 7, if any person shall tender, utter, or put off any false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the King's current gold or silver coin, knowing the same to be false or counterfeit; the offender is guilty of a *Misdemeanour*, and may be *imprisoned not exceeding one year*; and if at the time of such tendering, uttering, or putting off, such person shall have in his possession any other piece of counterfeit gold or silver coin, or shall either on that day, or within ten days next ensuing, tender, utter, or put off any more or other counterfeit gold or silver coin, knowing it to be counterfeit; the offender is liable to *Imprisonment not exceeding two years*; and if any person, who shall have been convicted of any offence before mentioned, shall afterwards commit any other offence under the act, he is then to be deemed guilty of *Felony*, and is liable to *Transportation for life, or not less than seven years, or imprisonment not exceeding four years.*

Having in possession counterfeit Gold or Silver Coin.—By sect. 8, if any person shall have in his custody or possession three or more pieces of false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the King's current gold or silver coin, knowing the same to be false or counterfeit, and with intent to utter or put off the same;—*Misdemeanour; Imprisonment not exceeding three years.* And if after conviction he commits the like offence,—

Felony; Transportation for life, or not less than seven years; or imprisonment not exceeding four years.

What sufficient Evidence of a previous Conviction.]—By sect. 9, where any person shall have been convicted of any offence, and is afterwards indicted for any subsequent offence, a copy of the indictment and conviction, certified by the proper officer, is declared, upon proof of the identity of the person of the offender, to be sufficient evidence of the previous conviction; without proof of the signature or official character of the person certifying the same.

Making or Dealing with coining Tools.]—By sect. 10, if any person shall knowingly, and without lawful authority, (the proof of which lies on the party accused,) make or mend, or begin or proceed to make or mend, or buy or sell, or shall knowingly, and without lawful excuse, have in his custody or possession any puncheon, counter-puncheon, matrix, stamp, die, pattern, or mould, in or upon which there shall be made or impressed, or which will make or impress, or which shall be intended to make or impress, the figure, stamp, or apparent resemblance of both or either of the sides of any of the King's current gold or silver coin, or any part of both or either of such sides;—or if any person shall, without lawful authority, make or mend, or buy or sell, or shall, without lawful excuse, have in his custody or possession any edger, edging-tool, collar, instrument, or engine, adapted and intended for the marking of coin round the edges with letters, grainings, or other marks or figures apparently resembling those on the edges of any of the King's current gold or silver coin, such person knowing the same to be so adapted and intended as aforesaid;—or if any person shall, without lawful authority, make or mend, &c. any press for coinage, or any cutting engine, for cutting by force of a screw or of any other contrivance round blanks out of gold, silver, or other metal, such person knowing such press to be a press for coinage, or knowing such engine to have been used, or to be intended to be used, for or in order to the counterfeiting of any of the King's current gold or silver coin;—*Felony; Transportation for life, or not less than seven years; or imprisonment not exceeding four years.*

Conveying Tools or Monies out of the Mint.]—By sect. 11, if any person shall, without lawful authority, knowingly convey out of any of his Majesty's mints any puncheon, tool, or engine, used or employed in or about the coining of coin, or any useful part of any of such tools, or any coin, bullion, metal, or mixture of metals;—

Felony; Transportation for life, or not less than seven years; or imprisonment not exceeding four years.

Offences relating to Copper Coin.—By sect. 12, if any person shall falsely make or counterfeit any coin resembling, or apparently intended to resemble or pass for, any of the King's current *copper coin*; or shall knowingly, and without lawful authority, make or mend, or begin or proceed to make or mend, or buy or sell, or shall knowingly, and without lawful excuse, have in his custody or possession, any instrument, tool, or engine, adapted and intended for the counterfeiting any of the King's current *copper coin*;—or if any person shall buy, sell, receive, pay, or put off, or offer to buy, sell, receive, pay, or put off, any false or counterfeit coin, resembling, &c. any of the King's current *copper coin*, at or for a lower rate or value than the same by its denomination imports, or was coined or counterfeited for;—*Felony; Transportation not exceeding seven years; or imprisonment not exceeding two years.* And if any person shall tender, utter, or put off, any false or counterfeit coin resembling, &c. any of the King's current copper coin, knowing the same to be false or counterfeit, or shall have in his custody or possession three or more pieces of such false or counterfeit copper coin knowing the same to be false or counterfeit, and with intent to utter or put off the same;—*Misdemeanor; Imprisonment not exceeding one year.*

When counterfeit Coin may be destroyed.—By sect. 13, where any gold or silver coin shall be tendered to any person, who shall suspect any piece to be diminished otherwise than by reasonable wearing, or to be counterfeit, he may cut, break, or deface it, and if it shall appear to be so diminished, or to be counterfeit, the person tendering the same shall bear the loss; but if it shall be of due weight, and shall appear to be lawful coin, the person cutting, breaking, or defacing it must then receive it at the rate it was coined for. If any dispute arises, it shall be determined by a justice of the peace, who may examine the parties and other persons upon oath.

Power to search for and seize counterfeit Coin, &c.—By sect. 14, if any person shall find or discover in any place whatever, or in the possession of any person having the same without lawful excuse, any false or counterfeit coin resembling, &c. any of the King's current gold, silver, or copper coin, or any instrument, tool, or engine whatever, adapted and intended for the counterfeiting of any such coin, the person so finding may seize the same and carry it before some justice. And where it shall be proved, on the oath of one witness

before a justice, that there is reasonable cause to suspect that any person has been concerned in counterfeiting the King's current gold, silver, or copper coin, or has in his custody or possession any such counterfeit coin, or any instrument, tool, or engine whatsoever, adapted and intended for the counterfeiting of any such coin, the justice may, by warrant under his hand, cause any place whatsoever belonging to or in the occupation, or under the control, of such suspected person to be searched, either in the day or night; and if any such counterfeit coin, or any such instrument, tool, or engine shall be found in any place so searched, the same may be seized and carried before the justice, who shall cause the same to be secured, for the purpose of being produced in evidence against any person who may be prosecuted for any offence against the act; and all counterfeit coin, and all such instruments, tools, and engines, after they shall have been produced in evidence, or where they shall be seized and not required to be produced in evidence, shall forthwith be delivered up to the officers of the mint, or their solicitor.

Warrant of a Justice to search for counterfeit Coin, and coining Instruments, under the 2 Will. 4, c. 34, s. 14.

Warwickshire, }
to wit. } To the constable of — in the said county.

Whereas it appears to me, J. P., esq., one of her Majesty's justices of the peace for the said county, by the information on oath of A. B. of — in the said county yeoman, that there is reasonable cause to suspect, and that he the said A. B. doth suspect, that C. D. of — in the said county, whitesmith, has been concerned in counterfeiting the Queen's current silver coin, and that he has in his custody and possession divers pieces of such counterfeit coin, and also sundry instruments, tools, and engines, adapted and intended for the counterfeiting of such coin: These are therefore, in the Queen's name, to authorize and require you the said constable, with necessary and proper assistants, to enter in the day-time, or the night-time, into any place belonging to, or in the occupation, or under the control of the said C. D., and there diligently to search for the said counterfeit coin, implements, tools, and engines; and if the same, or any of them, shall be found upon such search, that you seize and bring the same, and also the body of the said C. D., before me, or some other justice of the peace, to be disposed of and dealt with according to law. Given under my hand and seal, this — day of —, in the year of our Lord 1842. J. P. (L.S.)

Offences relating to Foreign Coin.

Making and counterfeiting Gold and Silver Coin.—By 37 Geo. 3, c. 126, s. 2, if any person shall make, coin, or counterfeit any kind of coin not the proper coin of this realm, nor permitted to be current within the same, but resembling, or made with intent to resemble or look like, any gold or silver coin of any foreign prince, state, or

country, or to pass as such foreign coin;—*Felony; Transportation not exceeding seven years.*

Importing.]—By *sect. 3*, if any person shall bring into this realm any such false or counterfeit coin, resembling, &c. any gold or silver coin of any foreign prince, &c., knowing the same to be false or counterfeit, to the intent to utter the same within this realm, or within any dominions of the same;—*Felony; Transportation not exceeding seven years.*

Uttering.]—By *sect. 4*, if any person shall utter, or tender in payment, or give in exchange, or pay, or put off, to any person such false or counterfeit coin, knowing the same to be false or counterfeit, he shall, on conviction, suffer *six months' imprisonment*, and find sureties for his good behaviour for six months more. If the same person shall afterwards be convicted a *second* time of the like offence, he shall then suffer *two years' imprisonment*, and find sureties for his good behaviour for two years more. For a *third* offence, he is declared to be guilty of a capital *Felony*; which by 11 Geo. 4 & 1 Will. 4, c. 66, s. 1, is now only punishable with *Transportation for life, or not less than seven years; or imprisonment not exceeding four years, nor less than two, with or without hard labour and solitary confinement.*

Having in possession.]—By *sect. 6*, if any person shall have in his custody, without lawful cause, any greater number of pieces than five of false or counterfeit foreign gold or silver coin, upon conviction on the oath of *one witness* before *one justice*, he shall forfeit all such counterfeit coin, which shall be destroyed by order of the justice, and he shall also forfeit not exceeding 5*l.*, nor less than 40*s.*, for every piece of counterfeit coin, one moiety to the informer, and the other to the poor of the parish; and in case the penalty is not forthwith paid, the justice may commit him to the common gaol or house of correction to hard labour for three calendar months.

Granting Search Warrant.]—By *sect. 7*, on complaint made before any justice, on the oath of *one witness*, that there is just cause to suspect that any person hath been concerned in making or counterfeiting any such false or counterfeit coin, the justice may grant a warrant under his hand to cause the dwelling-house, or other place, belonging to such suspected person, or where he shall be suspected to carry on such making or counterfeiting, to be searched; and if any counterfeit coin, or any tools or implements for coining, or any materials for making such counterfeit coin, shall be found, the same may

be seized and carried before a justice, who shall cause them to be secured and produced in evidence against any person who may be prosecuted for any offence against the act, and after such production the court where the offender is tried, or some justice, in case there is no such trial, may order them to be destroyed, or otherwise disposed of.

By 2 Will. 4, c. 34, s. 1, so much of the above act is repealed as relates to copper money.

Counterfeiting Foreign Copper Coin.—By 43 Geo. 3, c. 139, s. 3, if any person shall make, coin, or counterfeit any kind of coin, not the proper coin of this realm, nor ordered by the King's proclamation to be taken as current money of this realm, but resembling, or made with intent to resemble, any copper coin, or any other coin made of any material, or mixed metals, of less value than the silver coin of such foreign prince, &c.;—*Misdemeanor*; punishment for *first offence*, *Imprisonment not exceeding one year*; and for a *second offence*, *Transportation for seven years*.

Having in possession counterfeit Foreign Copper Coin.—By *sect. 6*, if any person shall have in his custody, without lawful excuse, any greater number than five pieces of any false or counterfeit foreign copper coin, he shall, on conviction before *one justice*, on the oath of *one witness*, forfeit all such counterfeit coin, (which shall be destroyed,) and also not exceeding 40s., nor less than 10s., for every such piece of counterfeit coin, half to the informer, and half to the parish, and on non-payment of the penalty the offender may be committed to the common gaol or house of correction to hard labour for three calendar months.

Search Warrant.—By *sect. 7*, there is the same power given to a justice to issue a *search warrant* for counterfeit foreign copper coin, and in precisely the same terms as is given by the 37 Geo. 3, c. 126, s. 7, in respect of counterfeit gold and silver coin.

Combinations, Unlawful.

WHAT are unlawful Combinations.—By 39 Geo. 3, c. 79, s. 2, all societies, the members whereof are required to take any oath or engagement, which by 37 Geo. 3, c. 123 is declared to be unlawful, or any oath not required or authorized by law, or the members whereof shall take, subscribe, or assent to any test or declaration not required by law, or where the names of the members are kept secret

from the society at large, or which shall have any secret committee, president, or other officer, or which shall be composed of different divisions or branches, acting separately from each other, are declared to be *unlawful combinations and confederacies*. And every person who shall become a member of any such society, or who shall directly or indirectly maintain correspondence or intercourse with any such society, or with any division, branch, committee, or other select body, resident treasurer, secretary, delegate, or other officer, or member thereof as such; or who shall by contribution of money, or otherwise, aid, abet, or support such society, or any members or officers thereof as such, shall be deemed guilty of an *unlawful combination and confederacy*.

Exemptions.—By *sect. 3*, the act is not to extend to declarations approved by two justices, and registered with the clerk of the peace, provided such approbation be confirmed at the next general quarter sessions; nor (by *sect. 5*) to regular lodges of freemasons held before the passing of the act, provided (by *sect. 6*) two members of each lodge shall certify the same on oath, and deposit such certificate within two months with the clerk of the peace, with whom the name of the society, the place and times of meeting, and the names and descriptions of the members, must be also registered before the 25th March in every year. And by 57 Geo. 3, c. 19, s. 27, the act also is not to extend to *Quakers' Meetings*, or to any society formed or assembled for purposes of a *religious* or *charitable* nature only.

Penalty on Offenders.—By *sect. 8*, every such person may be proceeded against in a summary way, either before *one justice of the peace*, or by indictment; and, on conviction before a justice by the oath of *one witness*, he is to be committed to the common gaol or house of correction for three calendar months, or to forfeit 20*l.*, as to the justice shall seem meet, recoverable by *distress*, in default of which commitment not exceeding three calendar months. But by *sect. 9*, the justice may mitigate the punishment, so as it be not reduced to less than one third. If the offender is convicted on *indictment*, he may be *Transported for seven years, or imprisoned not exceeding two*.

By *sect. 13*, if any person shall knowingly permit any meeting of any such society, or of any division, branch, or committee thereof, to be held in his house or apartment, he shall, for the first offence, forfeit 5*l.*, and shall for any subsequent offence be deemed guilty of an unlawful combination.

By *sect. 14*, any two justices, upon evidence on oath that any meet-

ing of a society thereby declared to be an unlawful combination and confederacy, or any meeting for a seditious purpose hath been held at any house licensed for the sale of ale, &c. may adjudge the licence to be forfeited.

Time limited for Prosecutions.—By *sect. 34*, no person shall be prosecuted for any penalty, unless such prosecution is commenced within three calendar months after the penalty has been incurred.

Recovery of Penalties.—By *sect. 35*, all penalties not exceeding 20*l.* may be recovered before *one justice*, by *distress*; in default of which, commitment to the common gaol or house of correction for not more than six calendar months, nor less than three. By *sect. 36*, half the penalty goes to the King, and half to the informer.

Limitation of Actions.—By *sect. 37*, every action against any person, for any thing done in pursuance of the act, must be commenced within three calendar months; the venue must be where the fact was committed; and the general issue be pleaded; and if defendant succeeds, he is to have double costs.

By *sect. 38*, convictions are to be in the form given in the schedule.

What other Associations are unlawful Combinations.—By 57 Geo. 3, c. 19, ss. 24, 25, all societies or clubs calling themselves *Spenceans*, or *Spencean Philanthropists*, and all other societies or clubs who hold and profess the same objects and doctrines (that is, the confiscation and division of the lands, and the extinction of the funded property of the kingdom); every society or club, that shall elect or appoint any committee, delegates, representatives, or missionaries, to meet, confer, or communicate with any other society or club, or with any committee, delegate, representative, or missionary thereof, or to induce or persuade any person to become a member thereof, are also to be deemed *unlawful combinations and confederacies*, within the meaning of the 39 Geo. 3, c. 79. And every person who shall become or shall act as a member of any such society or club, or who shall directly or indirectly maintain correspondence or intercourse with it, or with any committee, delegate, representative, or missionary, or with any officer or member thereof, as such, or who shall by contribution of money, or otherwise, aid, abet, or support such society or club, or any member or officer thereof, as such, shall be deemed guilty of an *unlawful combination and confederacy*, within the meaning of the 39 Geo. 3, c. 79, and may be prosecuted according to the provisions of that act.

Exemptions.—By *sect. 26*, a similar exception is made in favour of lodges of *Freemasons* as by the 39 Geo. 3, c. 79, s. 3, provided they comply with the requisitions of that act,—and also of any society taking any declaration, the form of which has been approved under the regulations of that act. *Quakers' meetings*, and any meeting or society, formed only for *religious* or *charitable* purposes, are also excepted.

By *sect. 28*, a similar penalty is imposed as by the former act, on persons permitting unlawful meetings to be held in their houses; and by *sect. 29*, a similar penalty on publicans, at whose houses unlawful clubs are held. And the other sections of the act contain also similar provisions as to the recovery and application of penalties, &c.

1. *Conviction of an unlawful combination and confederacy by the 39 Geo. 3, c. 79, ss. 2, 8 (b).*

Lancashire, } Be it remembered, that on this — day of —, in the — year of
to wit. } the reign of &c., A. O. of — is duly convicted before me, J. P., esq.,
one of her Majesty's justices of the peace for the county of Lancaster, in pursuance of
an act of the 39th year of the reign of King George the Third, intituled "An Act for
the more effectual Suppression of Societies established for Seditious and Treasonable
Purposes, and for better preventing Treasonable and Seditious Practices," for that the
said A. O., after the passing of the said act, to wit, on the — day of —, did,
contrary to the said act, become a member of a certain society, called "The Society
for obtaining the People's Charter," and did act as a member of, and maintain corres-
pondence and intercourse with, the said society, which society is an unlawful combina-
tion and confederacy, within the intent and meaning of the said act: Wherefore I the
said justice do adjudge that he the said A. O. shall be committed to the house of cor-
rection at — in the said county, there to remain for the term of three calendar
months, [or "do pay the sum of 20*l*."] as a penalty for his offence, in pursuance of
the said act. Given under my hand and seal, this — day of —, in the year of
our Lord 1842, and in the fifth year of the reign of her Majesty Queen Victoria.

2. *Adjudication (c) of forfeiture of Licence to sell Ale, &c., under the 39 Geo. 3, c. 79, ss. 2, 14.*

Lancashire, } Be it remembered, that on this — day of —, in the fifth year of
to wit. } the reign of her present Majesty, A. B., of —, in the county afore-
said, being a person licensed to sell ale, beer, wine, and spirituous liquors, is duly con-
victed before us, J. P., esquire, and M. R., esquire, two of Her Majesty's justices of
the peace for the said county, in pursuance of an act of the 39th year of the reign of
King George the Third, intituled, "An Act," &c. [*as in the last precedent*], for that
he the said A. B. did, on the — day of —, at Manchester, in the said county,
permit a meeting of a society called "The Society for obtaining the People's Charter,"
which is an unlawful combination and confederacy within the intent and meaning of

(b) This form of conviction is given by
sect. 38.

(c) This form is also given by the 38th
sect. of the act.

the said act, to be held at a certain house in — street in Manchester aforesaid, known by the sign of —, being the house of the said A. B., wherein he the said A. B. is licensed to sell ale, beer, wine, and spirituous liquors: Wherefore we, the said justices, do adjudge and declare that the said licence is for such offence forfeited. Given under our hands and seals, this — day of —, in the year of our Lord 1842, and in the fifth year of the reign of her Majesty Queen Victoria.

3. *Conviction of an unlawful Combination and Confederacy, under the 57 Geo. 3, c. 19, ss. 25, 30 (d).*

Middlesex, } Be it remembered, that on this — day of —, in the fifth year of
to wit. } the reign, &c., A. B. of —, is duly convicted before me, J. P., esquire, one of her Majesty's justices of the peace for the county aforesaid, in pursuance of an act of the 57th year of the reign of King George the Third, intituled, "An Act for the more effectually preventing seditious Meetings and Assemblies," for that the said A. B., after the passing of the said act, to wit, on the — day of —, at the parish of St. Marylebone, in the said county, did, contrary to the said act, become a member of a certain society, called "The Irish Repeal Society," and did, by contribution of money and otherwise, abet and support the said society, which society is an unlawful combination and confederacy within the intent and meaning of the said act: Wherefore I, the said justice, do adjudge that he the said A. B. do pay the sum of 20*l.* as a penalty for his offence, in pursuance of the said act. Given under my hand and seal, this — day of —, in the year of our Lord 1842, and in the fifth year of the reign of her Majesty Queen Victoria.

N. B.—The schedule of the act also contains the form of an adjudication of the forfeiture of a licence in precisely the same terms as those of the above form given by the 39 Geo. 3, c. 79.

Commitment.

And see Bail.

FOR what cause.—A magistrate is bound to commit all persons charged before him with offences which are not bailable, as well as all those who neglect to offer bail for offences which are bailable, provided a *prima facie* case is made out against the party by witnesses entitled to a reasonable degree of credit (*e*). But before he commits any one for felony, or misdemeanor, he is required (by the 7 Geo. 4, c. 64, ss. 2, 3) to take the examination of the person charged, and the information upon oath of witnesses, and to reduce the same to writing. Wherever a justice is empowered by law to bind a person over, or to cause him to do a certain thing, and such person, being in his presence, shall refuse to be bound, or to do such

(d) This form is given by the 34th sect. of the act.

(e) 2 Hawk. c. 16, s. 1.

thing, the justice may commit him to gaol, to remain there till he shall comply (*f*); as a material witness on a charge of felony, who refuses to find sureties for his appearance at the sessions, notwithstanding the witness may be a feme covert (*g*). So, where a statute imposes a penalty, and, on failure of sufficient distress, directs that the offender shall be committed to prison for a certain period,—if the party has only sufficient to satisfy part of the penalty, the justice may commit him; but, in this case, the party's goods ought not to be taken also, for he is not to suffer both punishments for one conviction (*h*). By many recent statutes (as by the 7 & 8 Geo. 4, c. 20, s. 67, 7 & 8 Geo. 4, c. 30, s. 33, and 9 Geo. 4, c. 31, s. 27) it is provided, that in cases of summary conviction under those particular acts, the justice may, on nonpayment of the penalty, commit the offender for certain periods of imprisonment, without any warrant of distress. And see further on this subject, title *Distress*.

Where a party utters abusive language to a justice, while acting in the execution of his office, it seems that he may commit the offender, as for a contempt (*i*). And a borough justice has, in this respect, an equal authority with a county justice (*h*).

Form of the Warrant.—A commitment must be in *writing*, and under the hand and seal of the justice who makes it; and it may be either drawn up in the name of the king, and only tested by the justice, or in the name of the magistrate himself, expressing his office or authority. It should state the time and place where it was made, and be directed to the keeper of the prison, in which the party is ordered to be confined. It should also set forth the crime with certainty, and the name of the offender, if known; but if not known, and he refuses to declare his name, and it cannot be otherwise ascertained, then it should set forth a sufficient description of his person (*l*); and it is proper to state that the party is charged on oath. The warrant should have an apt conclusion. Thus, if it is a commitment for *safe custody*, or for *trial*, it should order the party to be detained till he be delivered by due course of law (*m*).

But a commitment for *contumacy*, or by way of *punishment*, requires greater precision, than a commitment for safe custody or trial. Thus, a commitment for *contempt* must be for a time certain,

(*f*) 2 Hawk. c. 16, s. 2; 2 Hale, P. C. 282.

(*g*) *Bennet v. Watson*, 3 M. & S. 1.

(*h*) 2 Ld. R. 1195, *Fost.* 132

(*i*) *R. v. Revel*, 1 Str. 420; *Mayhew*

v. Locke, 7 Taunt. 63.

(*k*) 2 Str. 786.

(*l*) 2 Hawk. c. 16, s. 13; 1 Hale, P. C. 577.

(*m*) 2 Hawk. c. 16, s. 18.

and until the offender be discharged by due course of law (*n*). If the commitment is for refusing to do something which the offender ought to do, the conclusion ought to be, until he perform the thing required; if it is on a summary conviction for the nonpayment of a fine, the precise sum must be specified in the warrant; and if the punishment be both fine and imprisonment, it should then order imprisonment for such a time, and from thence until the fine be paid. Where the imprisonment is only inflicted by statute, as an *alternative* punishment, for want of sufficient distress, the commitment must expressly allege the fact to be so, and not merely that the officer had returned that the defendant had no goods (*o*). It must also allege the party to have been convicted of the offence; and it is bad, if it merely state that he was charged with it (*p*). In many statutes, as in the 7 & 8 Geo. 4, c. 29, s. 73, 7 & 8 Geo. 4, c. 30, s. 39, and 9 Geo. 4, c. 31, s. 36, it is provided that a warrant of commitment for any offence under those acts shall not be held void, by reason of any defect therein; provided it be alleged that the party has been convicted, and there be a good and valid conviction to sustain the same (*q*). But a conviction for an offence, different from that recited in the warrant of commitment, will not justify the commitment (*r*).

When by parol.—A magistrate, however, may by *parol* order an offender to be detained in custody until he can make out his warrant of commitment, or till the return of a warrant of distress, in those cases where the justice is authorized to detain the party till the return of such warrant (*s*); and if a breach of the peace is committed within his view, he may then instantly order the offender to be taken into custody (*t*).

Commitment for re-examination.—So if, on the return of a warrant issued against a party for felony, there be some reasonable cause why the justice cannot then take or finish the examination, he may then merely by word of mouth order him to be detained in custody, for the purpose of his being brought up on a future day for *further examination*, without showing the particular cause for which he is to be examined, and without any fresh warrant in writing. But the time of such detainer must be reasonable; therefore a justice cannot justify the imprisonment of a party for fifteen, or even for ten days,

(*n*) *R. v. James*, 5 B. & Ald. 894.

(*o*) *R. v. Chandler*, 1 Ld. R. 545.

(*p*) *R. v. Rhodes*, 4 T. R. 220; *R. v. Cooper*, 6 T. R. 509.

(*q*) See 1 Deac. Crim. L. 267, *et seq.*

(*r*) *Rogers v. Jones*, 3 B. & C. 409.

(*s*) *Still v. Watts*, 7 East, 533.

(*t*) *Ibid.* 536.

in order to such further examination (*u*). Three days have been generally considered, by intendment of law, a reasonable time (*x*); and this is the usual period, for which magistrates are in the habit of committing a party from time to time for re-examination. But the time, it seems, may vary according to circumstances; and what is a reasonable time is a mixed question of law and fact (*y*).

To what prison.—By the 5 Hen. 4, c. 10, and 23 Hen. 8, c. 2, all *felons* were directed to be committed to the *common gaol* of the county, and not elsewhere. But it has been since provided by the 6 Geo. 1, c. 19, that where criminals are charged with small offences, they may be committed either to the common gaol, or house of correction, at the option of the magistrate. And by 5 & 6 Will. 4, c. 38, s. 3, any justice, or coroner, may commit for safe custody to any house of correction, situate near the place where the assizes or sessions are holden for the county, any person charged with any offence triable at such assizes or sessions. By 4 Geo. 4, c. 64, s. 7, idle and disorderly persons, rogues and vagabonds, incorrigible rogues, and other vagrants, are to be committed only to the *house of correction* for the county. And by *sect.* 8, in all cases where any party is liable to be committed to the house of correction, the justices for any town, which contributes to the support of any house of correction in the county, may commit to such house of correction. So, by 60 Geo. 3 and 1 Geo. 4, c. 14, justices for towns, not counties of themselves, but having an exclusive jurisdiction for the trial of felonies, may commit any person charged with a capital offence committed within their jurisdiction, to the county gaol, for trial at the next assizes.

If a man commit felony in one county, and be arrested in another, he may be committed to gaol in the county where he is taken. It is usual, however, to send him for examination before a justice of the county where the offence was perpetrated, by whom he is finally committed for trial to the gaol of that county. And by 24 Geo. 2, c. 55, if a man is apprehended upon a warrant indorsed in another county, for an offence not bailable, or for which he shall not there find bail, he must be carried back into the first county, and be dealt with according to law.

Commitment for trial.—Since the statutes of 1 & 2 Ph. & M. c. 13 (amended now by 7 Geo. 4, c. 64), which directed the justices, in cases of *manslaughter* and other *felonies*, to take the examination

(*u*) 1 Hale, P. C. 585.
(*x*) Cro. Eliz. 829.

(*y*) *Davis v. Capper*, 10 B. & C. 28.

merely of the prisoner, and certify the same at the next gaol delivery of the county, it has been usual for the justices, in all cases of great moment, to commit the prisoner for the next assizes or gaol delivery, and only in smaller matters, as in cases of petit larceny and offences not capital, to bind over to the quarter sessions (z).

Costs of Commitment.—By 3 Jac. 1, c. 10, s. 1, the costs of the commitment are to be paid by the party committed, if he has sufficient means to pay them; but if not, then, by 27 Geo. 2, c. 3, the magistrate may, upon examination upon oath, make an order for them on the treasurer of the county. But by *sect. 4*, in *Middlesex*, these charges are to be paid by the overseers of the poor of the parish where the party was apprehended. And by 60 Geo. 3 and 1 Geo. 4, c. 14, s. 3, in the case of a commitment by the justice of a town not being a county in itself to the county gaol, the expenses are to be paid by the town where the offence was committed.

Execution of Warrant.—Where the commitment is for the non-payment of a *penalty* given by a statute to the person suing for the same, the warrant cannot be executed on a *Sunday* (a). But any commitment for treason, felony, or a breach of the peace, is not within the statute of 29 Car. 2, c. 7, s. 6; and may therefore be executed on any day. And, whether the constable is named, or not, in the warrant, it may now, by 5 Geo. 4, c. 18, s. 6, be executed in any place within the jurisdiction of the justice, though out of the parish for which the constable is appointed.

Duration of the Warrant.—Unless the warrant is made returnable at a particular time, it remains in force until it is fully executed; that is, provided the magistrate is living. And if the party is suffered to go at large, upon a promise to find security or provide the penalty, which he neglects to do, he may be apprehended again on the same warrant (b).

Discharge of the prisoner.—Where the commitment is for felony, or misdemeanor, the prisoner cannot (except under the *Habeas*

(z) 2 Hale, P. C. 46. In 1839 a bill was brought into the House of Commons, for the purpose of declaring what prisoners should be tried at courts of *oyer and terminer*, and gaol delivery, in which a provision was introduced directing magistrates to specify in every warrant of commitment, whether the prisoner was to be tried at the assizes or the quarter sessions.

It would have been a very useful measure, and very satisfactory to the committing magistrate; but the bill dropped to the ground, having not even passed through the House of Commons.

(a) *R. v. Myers*, 1 T. R. 265.

(b) *Dickenson v. Brown, Peake*, N. P. Rep. 234.

Corpus Act) be lawfully discharged by any one but the King, until he be acquitted on his trial, or unless the grand jury find no bill against him, or there be no prosecution against him at the assizes, or sessions. But, where the commitment is until payment of a penalty, the party is entitled to his liberty, on the payment of it to the officer (c). He is not, however, entitled to bail on such a commitment; for a commitment after conviction is a commitment in execution, and does not admit of bail (d).

1. *Warrant of Commitment for safe Custody of a person charged with Felony.*

Lancashire, } J. P., esquire, one of her Majesty's justices of the peace for the said
to wit. } county, to the constable of —, in the said county, and to the keeper of
the common gaol at —, in the said county.

These are to command you, the said constable, in her Majesty's name, forthwith to convey and deliver into the custody of the said keeper of the said common gaol the body of A. B., charged this day before me, the said justice, on the oath of C. D. of —, farmer, and others, for that he the said A. B., on the second day of July, in the year of our Lord 1842, at — in the said county, five pieces of the current gold coin of the realm called sovereigns, one silver watch, and one gold seal, of the monies, goods, and chattels of the said C. D., feloniously did steal, take, and carry away: And you, the said keeper, are hereby required to receive the said A. B. into your custody in the same common gaol, and him there safely to keep, until he shall be thence delivered by due course of law. Herein fail you not. Given under my hand and seal, the — day of —, in the year of our Lord 1842.

J. P. (L. s.)

2. *Warrant of Distress for Expenses, where a person is committed to Gaol (e).*

County of }
Kent. } To the constable of —, in the said county.

Whereas, by warrant under the hand and seal of me, J. P., esquire, one of her Majesty's justices of the peace in and for the said county, bearing date the — day of —, in the year of our Lord 1842, A. B., late of —, in the said county, [labourer,] was committed to the common gaol of the said county, for [*here state the substance of the offence*], he, the said A. B., having means and ability to bear his own reasonable charges for so conveying and sending him to the said gaol, and the charges of those appointed to guard him thither; and whereas, C. D., constable of the parish of —, in the said county, who, in obedience to such warrant, conveyed the said A. B. to the said common gaol, hath made oath before me, the said justice, that the said A. B. refused at the time of his said commitment to defray the said charges, and did not then pay, nor hath since paid, the same, which said charges amount to the sum of £—: These are therefore to command you to sell such and so much of the goods and chattels of the said A. B., as shall satisfy and pay the said sum of £—; and that you cause the appraisement of such goods and chattels to be made by four of the honest inhabitants of the parish where such goods and chattels shall be; and I do hereby order

(c) *Smith v. Silson*, 1 Wils. 153.

(d) *Anon.* 11 Mod. 45.

(e) See *ante*, p. 177.

and direct that the goods and chattels so distrained shall be sold and disposed of at the expiration of four days from the time of taking such distress, unless the said sum of £—, together with the reasonable charges of taking and keeping such distress, shall be sooner paid; and that if the proceeds of such sale should produce more than the said sum of £— and such charges as last aforesaid, then that you return the overplus, upon demand, to him the said A. B., the reasonable charges of selling the said distress being first deducted; and if sufficient distress cannot be found of the goods and chattels of the said A. B., whereon to levy the said sum of £—, that then you certify the same to me, together with this warrant. Given under my hand and seal, at —, in the said county of —, the — day of —, in the year of our Lord 1842.

J. P. (L. S.)

3. *Order on Overseers (if in Middlesex), or the Treasurer of the County (if in any other county), to reimburse Expenses of conveying a Prisoner to Gaol, by stat. 27 Geo. 2, c. 3, s. 4 (e).*

County of } To the treasurer of the county of —, [or “to the overseers of the
Kent. } poor of the parish of —, in the county of —.”]

Whereas application hath been this day made to me, J. P., esquire, one of her Majesty's justices of the peace in and for the said county, by C. D., one of the constables of the parish of —, in the said county, to allow the reasonable expenses of his conveying A. B. to the common gaol at —, in the county aforesaid, who was by me committed to the said gaol, for [*here state the substance of the offence, as in the commitment*]: And whereas, it hath been duly made to appear to me, the said justice, that the said A. B. hath not money nor goods within the said county sufficient to bear the charges of himself and those who conveyed him to the said gaol: Now I, the said justice, having this day examined upon oath into the amount of the said charges and expenses, and having made due inquiry into the premises, do hereby ascertain and allow the reasonable expenses thereof, at the sum of £—, which I hereby order and require you, the treasurer of the said county [or “overseers”], forthwith to pay to the said C. D. Given under my hand and seal, this — day of —, in the year of our Lord 1842.

J. P. (L. S.)

4. *Commitment in Execution, where the Punishment is by Imprisonment, &c.*

Kent, } To the constable of —, in the said county, and to the keeper of the
— } house of correction at —, in the said county.

Whereas A. B., late of —, in the said county, labourer, was on this day duly convicted before me, J. P., esquire, one of her Majesty's justices of the peace in and for the said county, for that he the said A. B. &c. [*here state the offence as in the conviction*], against the form of the statute in that case made and provided; and I, the said J. P., thereupon adjudged the said C. D., for his said offence, to be imprisoned in the house of correction at —, in the said county, and there kept to hard labour for the space of —: These are therefore to command you, the said constable, to take the said A. B., and him safely to convey to the house of correction at — aforesaid, and there to deliver him to the said keeper thereof, together with this precept: And I do hereby command you, the said keeper of the house of correction, to receive the said

A. B. into the said house of correction, there to imprison him and keep him to hard labour for the space of ---; and for your so doing this shall be your sufficient warrant. Given under my hand and seal at ---, in the county aforesaid, this --- day of ---, in the year of our Lord 1842. J. P. (L. S.)

5. *Commitment, in default of immediate payment of a Penalty.*

Kent, } To the constable of ---, in the said county, and to the keeper of the
---, } house of correction at ---, in the said county.

Whereas A. B., late of ---, in the said county, labourer, was on this day duly convicted before me, J. P., esquire, one of her Majesty's justices of the peace for the said county, for that he the said A. B. &c. [*here state the offence as in the conviction*], against the form of the statute in that case made and provided; and I, the said J. P., thereupon adjudged that the said A. B. had forfeited the sum of £--- of lawful money of Great Britain for his said offence, to be paid to ---: And whereas the said A. B., being so convicted as aforesaid, and being now required to pay the said sum, hath not paid the same or any part thereof, but herein hath wholly made default: These are therefore to command you, the said constable, to take the said A. B., and him safely to convey to the house of correction at --- aforesaid, and there to deliver him to the said keeper thereof, together with this precept: And I do hereby command you, the said keeper of the said house of correction, to receive the said C. D. into the said house of correction, there to imprison him and keep him to hard labour for the space of --- calendar months, unless the said sum shall be sooner paid; and for your so doing this shall be your sufficient warrant. Given under my hand and seal at ---, in the county aforesaid, this --- day of ---, in the year of our Lord 1842. J. P.

6. *Commitment, in default of Payment of a Penalty within a limited time.*

Kent, }
---, } To the constable of &c. [*as in the last precedent*].

Whereas A. B., late of ---, in the said county, labourer, was, on the --- day of --- last past, duly convicted &c. [*as in the last precedent, to the end of the adjudication*]; and I, the said J. P., then and there ordered that the said sum should be paid by the said A. B. on or before the --- day of --- then next: And whereas the said A. B. did not pay the said sum on or before the said --- day of ---, nor hath he yet paid the same or any part thereof, but therein hath wholly made default: These are therefore to command you, the constable, &c. [*as before*].

Concealment of Birth—See Birth of Children.

Conies—See Rabbit Warrens, Game.

Conspiracy—See Assault, Combination.

Constable.

FOR actions against constables, see **Actions, II.**

For a constable's authority under the Metropolitan Police Act, see **Metropolitan Police.**

For the liability of a constable in permitting the escape of a prisoner, see *post*, **Escape.**

A constable, whether named or not in a magistrate's warrant, may now, by 5 Geo. 4, c. 18, execute the warrant in any place *within* the jurisdiction of the justice, although out of the parish or place for which he himself may have been appointed constable. He could not do this before, unless his name was specially inserted in the warrant (*e*).

High Constable.—By 41 Geo. 3, c. 78, s. 2, two justices may order an allowance to be made to any high constable for *extraordinary expenses* (*f*) incurred in the execution of his duty, in cases of *tumult, riot, or felony.*

By 7 & 8 Geo. 4, c. 31, *two* justices may also order the treasurer of the county to reimburse the high constable his necessary expenses, in defending an *action against the hundred* for damage done by rioters.

By 55 Geo. 3, c. 51, s. 19, *two* justices are empowered to take good and sufficient security from high constables in collecting the county rate.

Petty Constable.—If the court leet neglect to choose petty constables, they may be appointed and sworn by *two* justices (*g*). And by 13 & 14 Car. 2, c. 12, s. 15, if a constable die, or go out of the parish, any *two justices* may make and swear a new one, until the lord shall hold a leet, or till the next quarter sessions, which shall either approve the appointment, or make another. A single justice may also swear in a petty constable appointed by the leet (*h*).

Neglect of duty.—By 33 Geo. 3, c. 55, s. 1, *two* justices, upon complaint on oath of any neglect of duty of a constable, or of any disobedience by him of any warrant or order of a justice, may impose any reasonable fine upon him, not exceeding 40s.; which may be levied by *distress*, and is to be applied to the relief of the poor. In default of distress, the party may be committed to the house of correction not exceeding ten days. *Appeal*, upon giving ten days' notice.

(*e*) *Rex v. Weir*, 1 B. & C. 288.

(*f*) As to what are considered extraordinary expenses, see *R. v. Justices of*

Leicester, 7 B. & C. 6.

(*g*) 2 Hawk. c. 10, ss. 49, 50.

(*h*) 2 Str. 1149.

And by the *Vagrant Act*, 5 Geo. 4, c. 83, ss. 6, 11, if any constable *neglect his duty* in any thing required by that act, or if any person shall disturb or hinder him therein, the offender is liable to a penalty not exceeding 5*l.*, on conviction before *one* justice; leviable by *distress*; in default of distress, commitment to house of correction not exceeding three calendar months. And by *sect. 12*, when a constable is so convicted, or when he is fined by the justices under the 33 Geo. 3, c. 55, the justices may, in either case, make an order on the treasurer of the county for all necessary costs and expenses to be paid to the complainant.

By 6 Geo. 4, c. 80, s. 144, if any constable *neglect his duty* required of him by that act (relating to the collection of the excise duties on spirits), he is liable to a penalty of 20*l.*, on conviction before a single justice.

Constable's expenses.—By 3 Jac. 1, c. 10, s. 1, if a person committed to gaol for any offence do not pay the *charges of the constable* that guards him thither, the committing magistrate may issue a warrant of distress (*i*) on the offender's goods. In default of distress, then by 27 Geo. 2, c. 3, the justice may make an order for the amount on the treasurer of the county; except in *Middlesex*, where the overseers of the parish in which the party was apprehended are bound to pay them.

By 18 Geo. 3, c. 19, s. 4, where the *constable's accounts* are disallowed by the overseers, the constable may lay them before *one* justice, giving reasonable notice to the overseers; and the justice is authorized to examine the accounts, and settle the sum which shall appear due: but if the overseers are dissatisfied, then (by *sect. 5*) they may appeal to the next sessions, giving reasonable notice to the justice.

Special Constables.—By 1 & 2 Will. 4, c. 41, s. 1, where it appears to *two justices*, upon the oath of *one witness*, that any tumult, riot, or felony has taken place, or may be reasonably apprehended, and the justices shall be of opinion that the ordinary officers are not sufficient for the preservation of the peace, and for the protection of the inhabitants and the security of the property in any parish, then such justices, or any others acting for the same division, may appoint by precept in writing under their hands so many as they shall think fit of the householders, or other persons (not legally exempt from

(i) See the form, *ante*, *Commitment*, p. 178.

serving the office of constable) residing in such parish, or the neighbourhood, to act as *special constables*, for such time and in such manner as to the justices shall seem fit. And any one justice may afterwards administer the oath to every person so appointed. Notice of such appointment, and of the circumstances which rendered it expedient, must be forthwith transmitted to the Secretary of State and the Lord Lieutenant of the county.

By *sect. 2*, the Secretary of State, on the representation of *two justices*, may order that the persons exempt by law from serving the office shall nevertheless be appointed and sworn in; who are in that case liable to serve for two calendar months. And, by *sect. 3*, the Secretary of State may also direct the Lord Lieutenant of any county to cause special constables to be sworn in throughout the whole of the county, and that no person shall be excused by reason of any exemption; but such persons are only to be called upon to act for three calendar months.

By *sect. 4*, the justices may make regulations for rendering the special constables more efficient, and may remove any one for misconduct or neglect of duty.

By *sect. 6*, in certain cases the justices may order the special constables to act in an adjoining county.

By *sect. 7*, if any person, being appointed a special constable, shall refuse or neglect to take the oath appointed by the act, he is liable to a penalty not exceeding 5*l.*, on conviction before *two justices*; and by *sect. 8*, he incurs the like penalty for neglecting or refusing to serve, or for disobedience of orders, unless prevented by sickness or other unavoidable accident.

By *sect. 9*, the justices may suspend or determine the services of any or all of the special constables, giving notice to the Secretary of State and the Lord Lieutenant.

By *sect. 10*, if any special constable shall omit, within one week after the expiration of his office, or after ceasing to hold the same, to deliver over to his successor, or to the person directed by any justice, every staff, weapon, and other article provided for him under the act, he is liable to a penalty not exceeding 2*l.*, on conviction before *two justices*.

By *sect. 11*, if any person shall assault or resist any constable in the execution of his office, or promote or encourage any other person so to do, he is liable to a penalty not exceeding 20*l.*, on conviction before *two justices*; or he may be proceeded against by indictment.

By *sect. 13*, the justices at a special session may order reasonable allowances to the special constables for their trouble, loss of time, and expenses; and may also order payment of the expense of providing staves, or other necessary articles for them; such sums to be paid out of the county rate.

By *sect. 14*, the justices have power to adjourn any special session.

By *sect. 15*, prosecutions for offences under the act must be commenced within two calendar months, and all penalties are to go in aid of the county rate; and no inhabitant of any county is to be deemed an incompetent witness.

By *sect. 16*, the penalties are recoverable by *distress*, in default of which the offender may be imprisoned, with or without hard labour, not exceeding one calendar month, where the sum shall not exceed 5*l.*; and not exceeding two calendar months in any other case.

By *sect. 17*, a general form of conviction is given; and by *sect. 18*, *no certiorari*.

By 5 & 6 Will. 4, c. 43, s. 1, all persons willing to act as special constables may be appointed, and act as such, notwithstanding they are not resident in the parish, township, or place, for which they are appointed.

When appointed near Railways, &c.—By 1 & 2 Vict. c. 80, whenever the appointment of special constables has been occasioned by the behaviour, or by reasonable apprehension of the behaviour, of persons employed upon railways or other public works, the expenses thereof shall be paid by the companies carrying on such works; and on the oath of *three witnesses*, that the appointment of the special constables has been so occasioned, *two justices*, within one calendar month after such appointment, may make orders from time to time upon the treasurer of the company for the payment of such reasonable allowances for their trouble, loss of time, and expenses, as the justices shall think proper. A copy of every such order must be sent by the justices to the Secretary of State, and if it is allowed by him, it is binding on the company. But the allowance so made is not to exceed 5*s.* per day for each constable.

By *sect. 2*, the Secretary of State may disallow any such order, or reduce the amount; in which case so much as shall exceed the reduced amount shall be paid out of the county rates.

By *sect. 3*, in default of payment of the sum ordered, after allowance by the Secretary of State, the justices may order the amount to be levied by *distress*.

Constables under the Municipal Corporation Act.

By 1 & 2 Will. 4, c. 76, s. 76, the watch committee of every borough may appoint a sufficient number of fit men, who shall be sworn in before some justice of the peace having jurisdiction within the borough, to act as constables for preserving the peace by day and by night. The men so sworn may act within seven miles of any part of the borough.

Power of suspension or dismissal.—By sect. 77, the watch committee, or any two justices having jurisdiction within the borough, may suspend or dismiss any constable, whom they shall think negligent in the discharge of his duty, or otherwise unfit for the same, and no man so dismissed shall be re-appointed, without the consent of such two justices (*h*).

Authority of Constable.—By sect. 78, any constable may apprehend idle and disorderly persons whom he shall find disturbing the public peace, or whom he shall have just cause to suspect of intention to commit a felony, and deliver any person so apprehended into the custody of the constable at the nearest watch-house.

Power to take Bail.—By sect. 79, where any person charged with any petty misdemeanor shall be so brought into the custody of the night constable at the watch-house, such constable may take bail by recognizance, without fee or reward, conditioned that such person shall appear within two days before a justice within the borough; and he must enter in a book the particulars of the recognizance, and lay the same before the justice. If the party fails to appear, the justice must return a record of the recognizance to the next quarter sessions, with a certificate that the party has not complied with the obligation of it. But the justice may postpone the hearing, and enlarge the recognizance. When the matter is finally heard and determined, the recognizance is to be discharged, without fee or reward.

Neglect of Duty.—By sect. 80, if any constable shall be guilty of neglect of duty, or of disobedience of any lawful order, he is liable, on conviction before *two justices*, to be imprisoned, not exceeding ten days, or to be fined not exceeding 40s., or to be dismissed from his office, at the discretion of the justices.

Assaulting Constables.—By sect. 81, if any person shall assault, or resist any constable in the execution of his duty, or shall aid or incite

(*h*) But see *post*, 3 & 4 Vict. c. 88, s. 15, p. 190.

any person so to do, the offender, on conviction before two justices, shall forfeit not exceeding 5*l*.

Salaries and Allowances.—By *sect. 82*, the treasurer of the borough shall pay to the constables such salaries, wages, and allowances, as the watch committee shall, subject to the approbation of the council, direct; and the council may order to be paid also any extraordinary expenses in apprehending offenders and executing the orders of any justice, such expenses having been first approved by the justice; and the treasurer is also to pay such further sum as the watch committee shall, subject to the approbation of the council, award to any constable, as a reward for extraordinary diligence or exertion, or as a compensation for wounds or severe injuries received in the performance of his duty, or as an allowance to such of them as shall be disabled by bodily injury, or worn out by length of service.

Special Constables.—By *sect. 83*, *two justices* having jurisdiction within the borough are required, in October in every year, to appoint so many as they shall think fit of the inhabitants of the borough (not legally exempt from serving the office of constable), to act as special constables whenever they shall be required by the warrant of any of the justices having jurisdiction within the borough, and not otherwise; and every such warrant shall recite, that in the opinion of the justice, the ordinary police force of the borough is insufficient to maintain the peace. The special constables must take the oath required by the 1 & 2 Will. 4, c. 41, and they are to have the same powers, and are subject to the same duties and penalties as are contained in that act; and every special constable, when he shall be called out to act as such, is to receive 3*s*. 6*d*. per day.

Superseding provisions under Local Acts, &c.—By *sect. 84*, as soon as the constables shall have been appointed by the watch committee, a notice signed by the mayor shall be affixed on the door of the town hall, and every church within the borough, specifying the day on which such constables shall begin to act; on which day so much of all local acts as relates to any watchmen, constables, patrol, or police for the borough, shall cease and determine; and all watch-houses, arms, &c. are to be given up, under a penalty not exceeding 5*l*. over and above the value of the property, on conviction before *two justices*.

*By *sect. 86*, the watch committee are to transmit a quarterly report of the state of the constabulary force to the Secretary of State.

By *sect. 127*, the prosecution for offences must be commenced within three calendar months after the commission of the offence.

Witnesses.—By *sect. 128*, a justice may summon witnesses, and in default of the attendance of the party, or in case of his refusal to give evidence before two justices, he is liable to a penalty not exceeding 5*l.* And no witness, or justice, is to be deemed incompetent, from his rateability to the borough fund.

Recovery of penalties.—By *sect. 129*, the justices may adjudge any penalty to be paid immediately, or within a limited period, which, in default of payment, may be levied by distress; if no distress, the offender may be imprisoned, with or without hard labour, not exceeding one calendar month where the sum to be paid shall not exceed 5*l.*, and not exceeding two calendar months in any other case.

By *sect. 130*, a general form of conviction is given, and by *sect. 131*, an *appeal* to the next sessions.

By *sect. 132*, no *certiorari*; and no warrant of commitment or distress to be void for want of form.

By *sect. 133*, the usual restrictions are imposed on actions against persons for any thing done in pursuance of the act.

County and District Constables.

How appointed.—By 2 & 3 Vict. c. 93, s. 1, where the ordinary officers for preserving the peace are not sufficient for that purpose, nor for the protection of the inhabitants, or the security of property within any county, the justices at the quarter sessions may report to the Secretary of State how many are needed, and the rates of payment it would be expedient to make to them; but the number is not to exceed one for every thousand of the inhabitants.

By *sect. 3*, the rules for their government are to be made by the Secretary of State.

By *sect. 4*, the sessions may appoint a chief constable of the county, or one for each parliamentary division of the county, who may serve for two or more adjoining counties, if the justices of the respective counties shall agree to join in such appointment.

By *sect. 5*, notice must be given of any intention to adopt the provisions of this act, with the usual notice of holding sessions.

By *sect. 6*, the chief constable may, subject to the approval of two justices in petty sessions, appoint the other constables, and a superintendent for each division of the county, and is to have the general disposition and government of the force. And by *sect. 7*, the chief constable may also, subject to the approval of the quarter sessions, appoint a deputy, in case of his inability to perform his duty.

By *sect. 8*, the constables so appointed are to have all the powers

throughout the county, and also in any county adjoining, which any constable has within his constablewick, either by common law, or by statute. And every provision of the 1 & 2 Will. 4, c. 41 (1), is to extend to the constables so appointed, except where otherwise provided.

By *sect. 9*, every such constable, whilst acting as such, and within six months after he shall have ceased to be such, is disqualified from voting for the election of a member of parliament, and is also prohibited from endeavouring to persuade or dissuade any elector to give his vote, under the penalty of 20*l*.

By *sect. 10*, no constable is to exercise any other employment.

Neglect of duty, &c.—By *sect. 12*, every constable, who shall be guilty of any neglect or violation of duty, and is convicted thereof before any *two justices*, is liable to a penalty not more than 10*l*., which may be deducted from his salary, or he may be imprisoned, with or without hard labour, not more than one calendar month.

By *sect. 13*, no constable is permitted to resign, without leave of the chief constable, or a superintendent, unless he shall give a calendar month's notice, under the penalty of forfeiting all arrears of pay, or not more than 5*l*.

By *sect. 14*, every constable, who, on his dismissal or ceasing to hold his office, shall not deliver over all his clothing and accoutrements to the chief constable or superintendent, is liable, on conviction before *two justices*, to imprisonment, with or without hard labour, not exceeding one calendar month; and a justice may issue a search warrant to seize such clothing and accoutrements.

By *sect. 15*, every person, not being a constable, who shall have in his possession any such clothing or accoutrements, and who shall not be able satisfactorily to account for the possession; or who shall put on the dress, or take the name, designation, or character of any constable, for the purpose of doing any act which such person would not be entitled to do of his own authority, or for any other unlawful purpose, shall, in addition to any other punishment to which he may be liable, on conviction before *two justices*, be subject to a penalty not more than 10*l*.

Innkeepers harbouring Constables.—By *sect. 16*, if any victualler, or keeper of any house or place for the sale of liquors, shall knowingly harbour or entertain any constable, or permit him to remain there during any part of the time appointed for his being on duty, he is liable, on conviction before *two justices*, to a penalty not exceeding 5*l*.

(1) See *ante*, p. 182.

Chief Constable.—By *sect. 17*, the chief constable is required to attend every general and quarter sessions of the county, and to make quarterly reports of all matters concerning the police of the county, and shall obey all lawful orders and warrants of the justices; and the superintendents are to do the like, at every session of the justices holden for their respective divisions.

By *sect. 18*, in addition to the salary to the chief constable, reasonable allowances shall be made to him for necessary expenses, to be audited by the justices at the quarter sessions.

Constables for Divisions.—By *sect. 19*, in case the quarter sessions shall not resolve on appointing constables for the whole of the county, they may appoint constables for any division of the county for which petty sessions are holden, and in such case the majority of the justices there assembled are to have all the powers with regard to such division, which are given with respect to the whole county, &c.

By *sect. 21*, when the act is adopted for any division, and not for the whole county, the quarter sessions may order the county rate upon such division to be increased; and by *sect. 22*, in that case all the provisions of the 55 Geo. 3, c. 51, as to county rates shall apply to the increased rates.

By *sect. 24*, the act does not authorize the county justices to appoint any constable within any borough incorporated under the provisions of the Municipal Corporation Act, (5 & 6 Will. 4, c. 76,) nor is any such borough, for which a separate court of quarter sessions shall be holden, liable to contribute to the expenses of the act.

By *sect. 25*, upon the appointment of any constables under this act for any county or division, the power to appoint and pay any constables in any hundred or place within such county or division,—except those under the Municipal Corporation Act, and high constables, or special constables appointed under the 1 & 2 Will. 4, c. 41,—shall cease. But nothing in the act is to prevent the appointment of parochial constable, nor the appointment of any constable, to act as returning officer in any election, whenever such appointment may be necessary.

By *sect. 26*, the power to appoint and pay constables, under any act of parliament for watching any town, parish, or place, which contains more than 10,000 inhabitants, shall still continue for two years after the passing of the present act, and thence to the end of the then next session of parliament.

By *sect. 28*, the act is not to extend to any part of the Metropolitan Police District.

And see 4 & 5 Will. 4, c. lxxvii. for more effectually securing the due execution of the office of constable in the city of *London*.

By 3 & 4 Vict. c. 88, s. 2, all detached parts of counties are, for the purposes of the above act of the 2 & 3 Vict. c. 93, to be considered as part of that county by which they are wholly or partly surrounded. And outlying districts may be transferred, under the authority of the quarter sessions of two or more neighbouring counties, from one county to another.

Police rate.—By *sect. 3*, so much of the 2 & 3 Vict. c. 93, as directed the salaries and expenses of the force to be paid out of the county rate, is repealed; and the quarter sessions are in future to make a police rate; which rate (by *sect. 5*) is to be levied with the county rate.

By *sect. 9*, the treasurer of any county, or any person by his order, may inspect any rate made for any other county, the inhabitants of any part of which shall be liable to be rated to the police rate in the first named county, and also any returns delivered in pursuance of any of the acts relating to county rates, and may take copies or extracts from any such rates or returns, without payment of any fee or reward; and if any person, having the custody of any such rate or return, shall wilfully neglect or refuse to permit such inspection, within two days after such order shall have been produced and shown to him, or a copy thereof left at his usual place of abode, he is liable, on conviction thereof before any *two justices*, to forfeit not exceeding 10*l*.

Consolidation of Borough with County Police.—By *sect. 14*, boroughs may agree to consolidate their police with the county police. And by *sect. 15*, in such case the chief constable of the county shall have the general disposition and government of the force, and at his pleasure may dismiss all or any of the men belonging to it; but in that case the watch committee of the borough are to appoint another constable, unless provision shall be made in such agreement that all constables shall be appointed by the chief constable. No borough constable, who shall have been dismissed by the chief constable, shall be capable of being re-appointed for the same borough without the consent of the chief constable; and so much of the act for regulating corporations as empowers the watch committee, or any two borough justices, to dismiss any constable, is suspended as to those boroughs, whose establishment of constables is consolidated with that of county constables, during the time that such consolidation shall be in force.

Local Constables.—By *sect. 16*, the chief constable is to lay before the justices acting for every petty sessional division of the county, at one of their special sessions holden for hearing appeals against the poor rates, a list of fit persons residing within every parish within the division, willing to serve as local constables during the year then next ensuing; and the justices of each division are to select from such list so many local constables as they shall think fit to appoint for every such parish. All such local constables shall be subject to the authority of the chief constable, and to such regulations as shall be made for their government by the Secretary of State, and shall have within the whole county, and also within all liberties and detached parts of other counties situated therein, and also in every adjoining county, all the powers of a constable within his constable-wick; but shall not be bound to act beyond the parish or place for which they are severally appointed and sworn.

By *sect. 17*, fees and allowances for the service of summonses and execution of warrants, and for the performance of the other occasional duties by the local constables, are to be settled by the quarter sessions.

Additional Constables.—By *sect. 19*, the chief constable, with the approval of the quarter sessions, may, on the application of any person showing the necessity thereof, appoint any additional constables, at the charge of such person; but such person may, upon giving one calendar month's notice in writing to the chief constable, require that the constables so appointed shall be discontinued.

Local Acts discontinued.—By *sect. 20*, the provisions of the 3 & 4 Will. 4, c. 90, for lighting and watching parishes in England and Wales, and all local acts authorizing the appointment of constables and watchmen, and rates to be made for the purpose of defraying their expenses, are to cease, when it shall be notified by the chief constable to the commissioners, or other persons having authority over such constables or watchmen, by writing under his hand, that he is ready to undertake the charge of the parish, town, or place, on some day to be specified in the notice.

When Constables may be discontinued.—By *sect. 24*, the constables may be discontinued, if three-fourths of the justices at the quarter sessions shall be of opinion that such constables are no longer needed, and shall report that opinion to the Secretary of State; provided six months' notice is given of the intention to propose such report, and the same shall be approved by the Secretary of State.

Police districts.—By *sect. 27*, the quarter sessions may form different police districts in each county, declaring the number of men that ought to be appointed for each district, with the approbation of the Secretary of State; in which case (by *sect. 28*) each police district is to pay the expense of the salaries and clothing of its own constables; but the constables are to be subject to duty in any part of the county, as if no districts had been made.

By *sect. 29*, if the sessions shall not resolve on appointing constables for the whole county, they may form any number of contiguous parishes, containing not less than 25,000 inhabitants, into a division for the purposes of the act.

By *sect. 31*, the chief constable is required to furnish to the clerk of the peace a monthly return of the disposition and number of the constabulary force.

Execution of Warrants of Commitment.—By *sect. 30*, any justice may command the officer, to whom any warrant of commitment is directed, to convey and deliver the body of the person so committed, with the warrant, into the custody of the constable who shall be in attendance at the nearest or most convenient station-house or strong room belonging to the police force, lying in the way towards the gaol or house of correction to which the party is committed, or to such other constable as shall be appointed by the regulations of the police force to take charge of persons so committed; which constable shall indorse upon the warrant a certificate in writing under his hand of the delivery of such person into his custody, and the time and place of such delivery; and such certificate shall discharge the officer so delivering over the body of such person from further execution of the warrant. The constable, into whose custody such person shall have been so delivered, is to complete the execution of the warrant, by conveying and delivering him either to the gaol or house of correction, or into the custody of the constable in attendance at the next station-house or strong room, or to such other constable as shall be appointed by the regulations of the police force to assist in taking charge of persons so committed. Every constable, into whose custody any person shall be so delivered, and who shall have indorsed such certificate upon the warrant, shall have the same powers, privileges, and protections in the execution of the warrant, as if the same had been originally directed to him by name.

And see further as to the nature and duties of the office of a constable, 1 Dea. Crim. Law, 283, *et seq.*

Contempt—See Commitment.

Contempt—See Dissenters.

Conviction.

THE power of a justice of the peace to convict an offender in a summary way, without the intervention of a jury or an open trial, is in restraint of the common law, being founded entirely upon a special authority conferred and regulated by statute. No new offence is cognizable in that manner, unless expressly made so by act of parliament; and therefore nothing will be presumed in favour of this branch of the office of a justice of the peace, but, on the contrary, the intendment will be rather against it. Consequently, wherever a statute gives a justice power to convict for an offence, it must appear that he has strictly pursued it; otherwise the common law will break in upon him, and level all his proceedings. And notwithstanding the trial by jury is dispensed with, yet he must be guided by the principles of the common law, and consider himself only as constituted in the place both of judge and jury.

But whatever authority may be given to a justice to convict summarily for an offence, it has always been held as a maxim, that where the title to *property* is in question, the exercise of a summary jurisdiction is ousted (*l*); a principle which is not founded upon any express legislative provision, but is a qualification which the law itself raises in the execution of penal statutes, and is always implied in their construction. The rule, however, is not to be extended, so as to enable an offender to arrest the summary jurisdiction of the justice by a mere fictitious pretence of title. An assertion of right therefore is not to be regarded, where it evidently appears that no colour or pretext for it exists (*m*). When questions of this kind occur, it may be prudent for magistrates to abstain from any other inquiry, than whether the act was really done under an idea of authority entertained at the time, and not fabricated afterwards for the mere purpose of evading the penalty; and, if it appears to have been done under such real impression, to dismiss the complaint, without investigating the legal grounds of the claim at all.

Before a magistrate can legally convict, there must be an *informa-*

(*l*) *R. v. Burnaby*, 2 *Ld. Raym.* 900; 583; *Kinnersley v. Orpe*, *Doug.* 499.
1 *Salk.* 181; *R. v. Speed*, 1 *Ld. Raym.*

(*m*) *Calcraft v. Gibbs*, 5 *T. R.* 19.

tion or charge against the party; he must then be *summoned* to answer the charge, and have an opportunity of making his defence; the *evidence* against him must then be taken in his presence, and upon oath; and if the magistrate find him guilty, there should be a regular *conviction*, drawn up according to the requisitions of the statute; so that if the justice is called to account for his proceeding by a superior court, it may appear that he hath conformed to the law and not exceeded his jurisdiction. But one magistrate has no jurisdiction to adjudicate on a case, where the original information was exhibited before another(*n*).

The defendant is entitled to a copy of the conviction; but the magistrate is not thereby precluded from drawing up and returning a conviction in a more formal shape(*o*); and the conviction must in all cases be returned to the sessions(*p*). The magistrate, however, cannot draw up a corrected record of the conviction, after it has been brought up by certiorari and been quashed(*q*).

Of the General Form of the Conviction.—In order to prevent the inconveniences arising on summary proceedings before justices of the peace, from a want of a general form of conviction, it is enacted by the 3 Geo. 4, c. 23, that in all cases where no particular form for the record of a conviction is directed, the convicting magistrate may cause the record of it to be drawn up in the form given by that statute, or in any words to the same effect. This form comprehends,

1. The *Information*, or charge against the defendant.
2. The *Summons*, with the *appearance* of the party before the magistrate, and his denial of the charge; or the *default* of his appearance, or his neglect to make any defence.
3. The *Evidence*, which is directed to be stated as nearly as possible in the words used by the witness; and if more than one witness be examined, the evidence of each must be stated; or if the defendant confess, then his confession of the charge will be sufficient, without the evidence.
4. The *Adjudication*, which must specify the amount of the forfeiture, and the way in which it is to be paid or distributed.

By *sect. 2* it is provided, also, that in all cases where two or more justices are authorized to hear and determine any complaint, *one* justice may receive the original *information* or complaint, and issue the *summons* or *warrant* requiring the party to appear. And after adjudication before two justices, all the subsequent proceedings to

(*n*) *Jones v. Gurdon*, Q. B. Hil. T. 1841.
 (*o*) *R. v. Allen*, 15 East, 333.

(*p*) *R. v. Eaton*, 2 T. R. 285.
 (*q*) *Chaney v. Payne*, 1 Gale & D. 348.

enforce obedience thereto may be under the authority of *one*. But where the original information is laid before one justice, the form of the conviction must be conformable to the fact.

By *sect. 3*, where it appears by the conviction, that the defendant has appeared and pleaded, and the merits have been tried,—and the defendant has not appealed against the conviction, where an appeal is allowed,—or when the conviction has been affirmed on appeal; it shall not be set aside for any defect of form, but the construction shall be such a fair and liberal construction as will be agreeable to the justice of the case.

But notwithstanding this enactment, every *material fact* must be alleged in the conviction; and the omission will not be aided as a mere defect of form (*q*). And where any particular form of conviction given by a statute is not sufficient to ascertain that, which the express provisions of the act require to be ascertained, then it will be necessary to use more precise terms than what are contained in such form (*r*). But if the conviction contain every thing required by the form given by a statute, it will not be bad, for unnecessarily stating more than is required (*s*).

The county mentioned in the margin of a conviction does not indicate where the offence was actually committed, but only in what county the conviction was made, and consequently does not supply the want of that allegation in the body of the conviction (*t*).

The conviction must be (except where otherwise provided by statute) under the *hand and seal* of the convicting magistrate, and be written in words and figures *at length*.

Of the Information or Charge (u).—Many statutes, which give the power of summary conviction to a magistrate, direct “the information to be *in writing*”; but, unless expressly so directed, it is not necessary, though it is generally the practice, that this form should be observed (*x*). The *name* of the offender must be correctly given; and if there be several offenders, each must be named; for a conviction against “Messrs. Harrison and Co.” has been held bad (*y*). The charge against the defendant must be *direct and positive*, and not merely a statement of facts amounting only to a presumption of guilt (*z*). And where the *knowledge* of the offender is

(*q*) *R. v. Jukes*, 8 T. R. 536.
 (*r*) *Ex parte Hawkins*, 2 B. & C. 31;
Chaney v. Payne, 1 Gale & D. 348.
 (*s*) *R. v. Jefferies*, 4 T. R. 768.
 (*t*) 8 Mod. 309.
 (*u*) For the form of the information,

see *post*, **Information.**

(*x*) Deacon's *Paley on Convictions*, 32.

(*y*) *R. v. Harrison*, 8 T. R. 508.

(*z*) 10 Mod. 155.

mentioned by any statute as an ingredient of the offence, nothing short of a direct averment to that effect is sufficient; for the words "unlawfully, fraudulently, and against the form of the statute," are not equivalent to "knowingly (a)." The charge, however, need not be stated in the precise words of the act; but synonymous words are sufficient (b); and it is sometimes even necessary to give a more particular description of the offence than what is conveyed in the enacting clause of the statute (c). It is not enough, in describing the offence, to state the legal result of the facts, and not the facts themselves (d). The charge must also specify particular *things, sums, or quantities*, where any thing turns upon them; as where a magistrate is directed to award a compensation according to the amount of the injury done (e).

Every exemption, excuse, or qualification, which accompanies the description of the offence in the *enacting clause* of the statute, should be distinctly and positively negatived (f); unless, indeed, the exception in the clause relates to an entire new subject, and is not so incorporated with the offence charged, as to be in any way applicable to it by way of defence (g). And although the exceptions are contained in another section of the act, or even in another act of parliament, yet if they are distinctly referred to and engrafted into the enacting clause, they must in this case also be expressly negatived (h).

But where matters of excuse or exemption are the subject of a distinct proviso, either in the same statute, or in any other statute, and are not in any way referred to in the enacting clause, they are then considered merely as matters of defence, and need not be noticed in the information (i).

Where any thing is declared to be an offence only *sub modo*, the fact must be averred with the necessary modifications (k).

The omission of any material averment in the charge against the defendant in the conviction will not be cured by the subsequent statement of the evidence; for the defendant can be convicted only of the offence with which he is charged by the complainant; the evidence being held only to *prove* that charge, and not supply any defects in the statement of it (l).

(a) *R. v. Jukes*, 8 T. R. 536.

(b) *R. v. Ridgway*, 5 B. & Ald. 527.

(c) *Ex parte Hawkins*, 2 B. & C. 31.

(d) *R. v. Sparling*, 1 Str. 497.

(e) *R. v. Burnaby*, 2 Ld. R. 900; 1 Salk. 181; *R. v. Catterall*, 2 Str. 900.

(f) *R. v. Jukes*, 8 T. R. 542.

(g) *Steel v. Smith*, 1 B. & A. 94; *R.*

v. Matters, *ibid.* 362.

(h) *R. v. Pratten*, 6 T. R. 559; 1 East, 643, note.

(i) 8 T. R. 542; 1 East, 646, note; 1 T. R. 320.

(k) *R. v. Clark*, Cowp. 35.

(l) *R. v. Baines*, 2 Salk. 680; *R. v. Wheatman*, 1 Doug. 345. And see fur-

Appearance and defence.—When the defendant appears before the magistrate in obedience to the summons, the charge against him, as contained in the summons or information, should then be read to him, and he should be asked what he has to say in his defence. If he say that he is not guilty, the justice should then proceed to examine the witnesses, and adjudge of his guilt or innocence accordingly; and the like, if the defendant refuse to enter upon any defence; and it is indispensable that the witnesses should be sworn and examined in his presence (*n*). It is not sufficient to read over their depositions to him.

If the defendant *confess* the charge, the magistrate has then nothing to do but to convict him and award the penalty; but the confession must be before the magistrate himself, and not merely a former confession to a witness. And as the defendant, by appearing before the magistrate, waives all objections to the summons, so his confession cures any objections to the manner of taking the depositions; for a confession not only supplies the want of evidence, but is even stronger proof than the oath of witnesses (*o*). A minute should be taken of the confession of the defendant, in order that a conviction in form may be drawn up from it afterwards, and returned to the sessions.

If the defendant require time for his defence, a reasonable interval should be allowed for that purpose. But when the hearing is adjourned, care must be taken not to exceed the period of time that may be limited by the act for convicting the offender (*p*).

If the defendant, after being duly summoned, neglect to appear, the magistrate may then proceed *ex parte*, and convict him in his absence; but there must be a due examination of the witnesses upon oath, and with the same formality as if the defendant was present (*q*).

Evidence.—The evidence must be taken upon *oath*, or in the case of a Quaker, upon *affirmation*, and it must be expressly so stated in the conviction (*r*). And we have seen that it is indispensable that it should be taken in the presence of the defendant.

The witnesses should also be described by *name*; which is the more necessary where any part of the penalty is given to the in-

ther, Deacon's Edition of Paley, 65, et seq.; and 1 Deac. Crim. L. 306, et seq.

(*n*) *R. v. Crowther*, 1 T. R. 125; *R. v. Binwill*, 6 T. R. 75.

(*o*) *R. v. Hall*, 1 T. R. 320; *R. v.*

Gage, 1 Str. 546.

(*p*) *R. v. Tolley*, 3 East, 467.

(*q*) *Reg. v. Simpson*, 10 Mod. 379.

(*r*) *R. v. Aldridge*, 2 B. & C. 606.

former, in order to show that the conviction is not founded on the testimony of the informer himself.

All the evidence should be set out, in order that sufficient proof may appear to warrant the adjudication (*s*); and it should be kept distinct from the information, so as to let it appear distinctly what is information, and what is evidence (*t*); and it must establish the identical offence in the information (*u*).

The evidence must also show the *time* and *place* of committing the offence, and this cannot be supplied by intendment; for it is necessary that the offence should appear to have been committed within the jurisdiction of the convicting magistrate, and that the proceedings against the offender should have been commenced within the period limited by the statute (*x*).

With respect to the *nature* and *degree* of the evidence,—it should be such as would be sufficient to be left to a jury on a trial; the magistrate being substituted for a jury, in deciding whether the evidence substantiates the charge against the accused party (*y*).

Of the Adjudication.—The adjudication consists of two parts, the *conviction*, and the *sentence* or award of punishment; and the judgment must be such as is strictly warranted by the premises. Where a statute imposes a pecuniary penalty for the offence, the adjudication must specify, and with accuracy and certainty, the amount of the penalty inflicted on the defendant. And where any *discretion* is left to the magistrate as to the division or appropriation of the penalty, or where any sum is to be assigned by way of satisfaction or reward, the adjudication must specify the manner and proportion in which the penalty is to be distributed; for it then becomes a necessary part of the judgment, and ought to appear on the record (*z*). But where the penalty is expressly appropriated by the statute, the adjudication then need not contain any award to that effect; but it is sufficient if it award the penalty “to be distributed as the act directs (*a*);” unless indeed there would be any uncertainty in the objects of the distribution,—as where a third of the penalty is given “to the person apprehending or securing the offender;” in which case the party entitled to any proportion of the penalty must be specified by name (*b*).

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|---|--|
| (<i>s</i>) <i>R. v. Clarke</i> , 8 T. R. 220. | <i>Reason</i> , 6 T. R. 376; <i>R. v. Smith</i> , 8 T. R. 588. And see Deacon's <i>Paley on Convictions</i> , p. 142, <i>et seq.</i> |
| (<i>t</i>) <i>R. v. Green</i> , Cald. 391. | (<i>z</i>) <i>R. v. Dimpsey</i> , 2 T. R. 96. |
| (<i>u</i>) <i>R. v. Smith</i> , 8 T. R. 588. | (<i>a</i>) <i>R. v. Barrett</i> , 1 Salk. 383. |
| (<i>z</i>) <i>R. v. Woodcock</i> , 7 East, 146; <i>R. v. Edwards</i> , 1 East, 279. | (<i>b</i>) <i>R. v. Seal</i> , 8 East, 573. |
| (<i>y</i>) <i>R. v. Davis</i> , 6 T. R. 177; <i>R. v.</i> | |

If *costs* are given by the statute imposing the penalty, and are ordered to be paid by either party, the exact sum must be ascertained and specified in the conviction (*c*).

And see *post*, title *Costs*.

1. *General form of Conviction (d) provided by 3 Geo. 4, c. 23.*

Lancashire, } Be it remembered, that on the — day of —, in the year of our
to wit. } Lord —, at —, in the county of Lancaster, A. B., of —, in the
said county, labourer [or *as the case may be*], personally came before me [or “before
us”], C. D., one [or “two,” *as the case may be*] of her Majesty’s justices of the peace
for the said county, and informed me [or “us”] that E. F., of —, in the county
aforesaid, labourer, on the — day of —, at —, in the said county, did, —
[*here set forth the fact for which the information is laid*], contrary to the form of the
statute in such case made and provided: Whereupon the said E. F., after being duly
summoned to answer the said charge, appeared before me [or “us”] on the — day
of —, at —, in the said county, and, having heard the charge contained in the
said information, declared he was not guilty of the said offence [or *as the case may hap-*
pen to be, “did not appear before me pursuant to the said summons,” or “did neglect
and refuse to make any defence against the said charge,”] whereupon I [or “we”] the
said justice [or “justices”] did proceed to examine into the truth of the charge con-
tained in the said information, and on the — day of — aforesaid, at the parish of
— aforesaid, one credible witness, to wit, A. W., of —, in the county of —,
upon his oath deposeth and saith [if E. F. be present, say, “in the presence of the said
E. F.”], that within — mouths [or *as the case may be*] next before the said informa-
tion was made before me [or “us”], the said justice, by the said A. B., to wit, on the
— day of —, in the year —, the said E. F., at —, in the said county of —
[*here state the evidence, and as nearly as possible in the words used by the witness, and if
more than one witness be examined, state the evidence given by each; or, if the defend-
ant confess, then, instead of stating the evidence, say, “and the said E. F. acknowledged
and voluntarily confessed the same to be true”*]: Therefore, it manifestly appearing
to me [or “us”] that he the said E. F. is guilty of the offence charged upon him in the
said information, I [or “we”] do hereby convict him of the offence aforesaid, and do
declare and adjudge that he the said E. F. hath forfeited the sum of — of lawful money
of Great Britain, for the offence aforesaid, to be distributed [or “paid,” *as the case may
be*] according to the form of the statute in that case made and provided. Given under
my hand [or “our hands,” &c.] and seal, the — day of —, in the year of our
Lord 1842. C. D. (L. S.)

2. *The like, where the Penalty is mitigated, and Costs are awarded.*

Lancashire, } [As in the above form, to the adjudication, and then proceed thus]:
to wit. } do declare and adjudge that the said E. F. hath forfeited for his said
offence the sum of £— of lawful money of Great Britain, the one moiety thereof to

(c) *R. v. Symonds*, 1 East, 189. And see further, as to the adjudication, Deac. Pal. 190; 1 Deac. Crim. Law, 322, et seq.

(d) For the form of the information, summons, &c., see *post*, *Information, Summons*.

the use of —, and the other moiety to — [*the informer, or as the statute directs*], according to the form of the statute in such case made and provided: And I the said justice [*or "we, the said justices,"*] seeing cause to mitigate the said penalty, do, at the request of the said E. F., according to the statute, mitigate and lessen the same to the sum of —, over and above the reasonable costs and charges of the said A. B., by him laid out and expended in and about the prosecution in this behalf expended, to be distributed [*or "paid," as the case may be*], one moiety thereof to, &c. [*as before*], and the other moiety to, &c., and which costs (*e*) and charges of the said A. B., the said informer, I [*or "we"*] do allow, assess, and adjudge to him at the sum of —, of like lawful money, according to the statute in that case made and provided. Given under my hand, &c. [*as before.*]

3. Conviction for a second Offence.

Lancashire, } [*Proceed as the first form, to the end of the words, "I do hereby con-*
to wit. } vict him of the offence aforesaid"]: And it is now proved before me, the said J. P., that the said E. F. was heretofore, on &c., duly convicted before S. J., esquire, one of her Majesty's justices of the peace for the county of —, for that he the said E. F., on &c., at &c., in the said last-mentioned county [*here state with precision the former offence of which the party was convicted*], against the form of the statute in that case made and provided; and that the said E. F. was thereupon adjudged, for his said last-mentioned offence, to be imprisoned in the —, there to be kept to hard labour for the space of one calendar month: Now I, the said J. P., do therefore adjudge the said E. F. for such his said second offence, of which he is now convicted as aforesaid, to be imprisoned in the —, there to be kept to hard labour for the space of — calendar months. Given under my hand and seal, the day and year first above mentioned.

J. P. (L. s.)

[*If whipping form a part of the punishment, add,*] and also that the said E. F., after the expiration of — days from the date hereof, and before the expiration of the said last-mentioned term of imprisonment, shall be — privately whipped. Given, &c.

J. P. (L. s.)

S. T. (L. s.)

Cordage for Shipping.

MAKING or selling *Cables of inferior quality.*—By 25. Geo. 3, c. 56, s. 2, no person shall use, in the making of cables, hawsers, or other ropes for the use of shipping, or knowingly sell the same, in the manufactory whereof there shall be used any hemp, usually known by the names of short chucking, half clean, whale line, or other toppings, cordilla, damaged hemp, or any hemp from which the staple part shall have been taken away by the manufacturer; on

(*e*) This form of awarding costs should only be used, where the costs are given by the statute imposing the penalty. Where the costs are awarded under the general authority given to magistrates by the 18

Geo. 3, c. 19, there should be a separate order for the payment of them, as provided by that statute; for which see *post*, **Costs**, p. 206.

pain of *forfeiting*, if the manufacturer, *the cable and treble value*, and if not the manufacturer, *treble the value*.

Cordage must be marked.]—By sect. 3 and 4, whenever cordage is manufactured of any hemp, the use whereof is not prohibited by the act, and the quality whereof is inferior to clean Petersburg hemp, the same shall be deemed *inferior* cordage; and the maker must distinguish the same by certain marks specified in the act, and also write on a tally (to be affixed thereon) the word "*staple*," or "*inferior*," as the case may be, and also his name, with the name of the place where manufactured, under the *penalty of 10s. for every hundred weight*.

Using old or worn stuff.]—By sect. 6, if any person shall make any cables of any old or worn stuff, which shall contain above seven inches in compass, he shall *forfeit four times the value* thereof.

Foreign made Cordage.]—By sect. 8, when any British vessel shall come into port, the master must make entry of all foreign made cordage on board, standing and running rigging in use excepted, and must pay the proper duties charged upon such cordage, under the penalty of *forfeiting the cordage, and 20s. for every hundred weight* thereof.

Recovery and application of penalties.]—By sect. 7, all penalties not exceeding 5*l.* may be recovered on summary conviction before *one justice*, on the oaths of *two witnesses*, and be levied by distress; in default of which, commitment to the common gaol or house of correction not exceeding three calendar months, nor less than seven days. All penalties to go to the informer.

Sect. 11 gives an *appeal* within four months, upon giving fourteen days' notice, and within four days entering into a recognizance to try the appeal. And by sect. 12, no proceeding is to be quashed for want of form, and no *certiorari*.

And see *post*, *Cinque Ports, Marine Stores, Ships*.

Corn.

FOR setting fire to stacks of corn, see *Arson*.

For assaulting persons, to obstruct the sale or conveyance of corn, see *Assault*.

By 9 Geo. 4, c. 60, s. 5, it is made unlawful to import for consumption any *malt*, or any *corn ground*, except wheat meal, wheat flour, and oatmeal, under the penalty of the same being forfeited.

By *sect. 20*, in case of the sickness, absence, or temporary incapacity of any inspector of corn returns, any *two justices* at the petty sessions may appoint a fit and proper person to act as inspector, until the next quarter sessions.

Omitting to make Declarations and Returns.—By *sect. 42*, if any person, who is required to make and deliver the declaration in the act set forth, shall not make and deliver the same at the time, and in the form and manner, and to the person directed in that behalf, he is liable to a *forfeiture of 20l. for every calendar month*, during which he shall neglect to make and deliver such declaration. And if any person, who is required to make any return to the inspector of corn returns, shall make default, he incurs the *penalty of 20l.*

Recovery of penalties.—By *sect. 43*, the penalties may be recovered before *two justices*, on the oath of *one witness*, to be levied by distress; and in case of non-payment on conviction, the justices may order the party to be detained in custody until the return of the warrant of distress, unless he gives security for his appearance at the return of the warrant, not being more than seven days from the time of taking such security. In default of distress, commitment to the common gaol or house of correction not exceeding three calendar months. By *sect. 44*, the justices may mitigate any penalty, so as the reduction do not exceed two thirds.

Default of Witnesses.—By *sect. 45*, if any witness, after being summoned and his expenses tendered to him, shall neglect to appear, or refuse to give evidence, he is liable to a penalty not exceeding *10l.*, recoverable as before mentioned.

False returns.—By *sect. 46*, if any person shall make any false and fraudulent statement in any return, or falsely and wilfully include therein any corn, which was not *bonâ fide* sold or bought to, by, or on behalf of the person in any such return mentioned, in the quantity, and for the price therein stated, he is guilty of a *misdeemeanor*.

Actions.—By *sect. 48*, any action brought against any person for any thing done in pursuance of the act, must be commenced within three months after the thing done, and be brought in the proper county; and the defendant may plead the general issue, and give the act and the special matter in evidence, and if the defendant succeeds in the action, he is entitled to treble costs.

Corporations.

BY 5 & 6 Will. 4, c. 76, s. 57, the mayor, for the time being, of every borough mentioned in that act, is declared to be a justice of the peace for the borough, and also during the next succeeding year after he shall cease to be mayor.

Officers not accounting, &c.—By *sect. 60*, if any corporate officer shall refuse or wilfully neglect to deliver in a true account in writing of all matters committed to his charge, and also of all monies received and paid by him, in the manner specified in the act, or to pay over all such monies as shall remain due from him, or to deliver up, within three days after being required, all books, papers, and writings, then, on complaint to any justice of the peace for the county, or other jurisdiction wherein such officer shall reside, the justice may issue a warrant for bringing him before any *two justices* for such county or jurisdiction, who may determine the same in a summary way, and may cause any monies due from him to be levied by distress; in default of which, or if it shall appear to the justices that the officer has refused or wilfully neglected to comply with any of the above requisitions, the justices may commit him to the common gaol or house of correction until he shall have paid such monies, or compounded for them with the council of the borough, or have performed the other things above required of him. But he is not to be detained in prison longer than three calendar months, for want of a sufficient distress.

Under this last section county magistrates may determine complaints against corporate officers refusing to deliver up papers, though such officer reside within the precincts of the corporation, and the corporation have magistrates (*f*).

Appointment of Justices.—By *sect. 98*, the King may assign to so many persons as he shall think proper a commission to act as justices of the peace in and for each borough named in the schedule (A), and in and for such of the boroughs in the schedule (B) to which his Majesty may be pleased, upon the petition of the council thereof, to grant a commission of the peace. But every person so to be assigned must reside within the borough, or within seven miles of some part of it.

Appointment of salaried Justices.—By *sect. 99*, if the council of

(*f*) *Re Justices of Gateshead*, 6 Adol. & E. 550, note (a).

any borough shall think it requisite that a salaried police magistrate be appointed within such borough, the council may make a bye law fixing the amount of the salary, which is to be transmitted to the Secretary of State, when the King may appoint one or more fit persons (being barristers at law of not less than five years standing) to be a police magistrate for such borough. In every case of vacancy of the office, no new appointment shall be made, until the council shall again make application to the Secretary of State.

Qualification, &c. of Justices.—By *sect. 101*, the justices appointed under the provisions of the act need not be qualified by estate; and they are not to act as justices at any court of gaol delivery, or general or quarter sessions, or in making or levying any county rate.

Clerk to the Justices.—By *sect. 102*, the justices of every borough, to which a separate commission of the peace shall be granted, are to appoint a fit person to be their clerk, removable at their pleasure; but he must not be an alderman, or councillor of the borough, or clerk of the peace of the borough, or the partner of such clerk of the peace, or any person in his employ; nor be concerned in the prosecution of offenders committed by the borough justices.

Jurisdiction of County Justices.—By *sect. 111*, the county justices have jurisdiction in all boroughs, to which a separate court of quarter sessions has not been granted under the act; but no part of any borough, for which a separate court of quarter sessions shall be holden, shall be within the jurisdiction of the justices of any county, from which such borough before the passing of the act was exempt.

Application of penalties.—By *sect. 126*, when by any act any penalties are recoverable in a summary way before a justice of the peace, and by such act the same are made payable to his Majesty, or any body corporate, or to any person whomsoever, except the informer who shall sue for the same, or any party aggrieved, the same, if recovered before any justice of any borough in which a separate court of quarter sessions shall be holden, shall be adjudged to be paid to the treasurer of the borough, on account of the borough fund. But this provision is not to extend to any penalties under any act relating to the customs, excise, and post office, or to trade or navigation, or any branch of the revenue.

By *sect. 127*, the prosecution for every offence under the act must be commenced within three calendar months after the commission of the offence.

Sect. 130 gives a general form of conviction; and *sect. 131* an *appeal* to the next sessions.

By *sect. 132*, no *certiorari*; and no warrant of commitment or distress to be void for want of form; and *sect. 133* imposes the usual restriction on actions against persons for any thing done in pursuance of the act.

For the appointment of *constables* under the Municipal Corporation Act, see *ante*, *Constable*.

Costs.

BY 18 Geo. 3, c. 19, s. 1, when any complaint is made before any justice of the peace, and any warrant or summons shall issue in consequence of such complaint, any justice, who shall have heard and determined the matter, may award such costs to be paid by either of the parties, and in manner and form as to him shall seem fit, to the party injured. And in case the person so ordered to pay the costs shall not forthwith pay down, or give security for the same to the satisfaction of the justice, the justice may, by warrant under his hand and seal, levy the sum by distress, and in default of distress commit the party to the house of correction of the county wherein the party shall reside, to be kept to hard labour not exceeding one month, nor less than ten days, or until the costs, together with the expenses attending the commitment, be first paid.

By *sect. 2*, where the penalty on any conviction exceeds 5*l.*, the costs may be deducted therefrom, so that they do not exceed one-fifth of the penalty.

By *sect. 3*, the several forms annexed to the act are directed to be used and observed, namely, *the Award of Costs, the Warrant of Distress and Sale, the Constable's Return thereon for want of Distress, and the Commitment thereupon to the House of Correction.*

By *sect. 9*, the sessions are empowered to lay down or alter the rules and regulations as to any such costs, which must receive the approbation and signature of one of the judges of assize.

By the 2 & 3 Vict. c. 71, s. 31, for regulating the Police Courts of the *Metropolis*, any magistrate, who shall hear and determine any charge or complaint, whether or not a warrant or summons shall have been issued in consequence of such charge or complaint, may award such costs as to him shall seem meet, to be paid to or by either of the parties.

There are many cases, however, where the statute imposing the

penalty gives costs, in which case they may be awarded in the conviction for the offence(*g*). But where costs are not given by the statute creating the offence, they can then only be awarded under the above statute of 18 Geo. 3, and there should be a separate order for the payment of them, pursuant to the form prescribed by that statute.

For the costs of committing offenders to gaol for safe custody, see *ante*, **Commitment**.

1. *Form (h) of awarding Costs, given by 18 Geo. 3, c. 19, s. 3.*

Kent, } I, A. J., one of her Majesty's justices of the peace in and for the county
to wit. } aforesaid, in pursuance of an act made in the eighteenth year of his late
Majesty King George the Third, intituled "An Act for the Payment of Costs to
parties, on Complaints determined before Justices of the Peace out of Sessions, for the
payment of the Charges of Constables in certain Cases, and for the more effectual
payment of Charges to Witnesses and Prosecutors of any Larceny, or other Felony;"
on the complaint of [*here state the names of the parties, and the offence generally, and
the date*], against —, for —, which said complaint was heard and determined by
me, on the — day of —, do award the following costs to be paid by —, viz.
[*here state the costs*]. Given under my hand and seal, this — day of —, in the
year of our Lord 1842.

2. *Form of Warrant of Distress and Sale for same.*

Kent, } To the constable of —, and to all other her Majesty's constables in and
to wit. } for —, in —, aforesaid.

Whereas I, J. P., esquire, one of her Majesty's justices of the peace in and for the county aforesaid, in pursuance of an act made in the eighteenth year of his late Majesty King George the Third, intituled [*here insert the title of the act, as before*], have awarded, on the — day of — now last past, on the complaint of — against —, for —, the following costs to be paid by —, viz. [*here state the sum*]; and whereas the said —, being ordered by me the said justice to pay such sum as aforesaid, hath not paid down or given security for the same, to the satisfaction of me the said justice: These are therefore to command you, and each and every of you, to levy the said sum of — by distress and sale of the goods and chattels of the said —; and I do hereby order and direct the goods and chattels so to be distrained to be sold and disposed of within — days, unless the said sum of —, for which such distress shall be made, together with the reasonable charges of taking and keeping such distress, shall be sooner paid; and you are hereby also commanded to certify unto me what you shall have done by virtue of this my warrant. Given under my hand and seal at —, the — day of —, in the year of our Lord 1842.

3. *Constable's return thereon for want of Distress.*

Kent, } I, —, constable of —, do hereby certify to J. P., esquire, justice of the
to wit. } peace for the county of —, that I have made diligent search for, but do
not know, nor can find any goods and chattels of —, by distress and sale whereof I

(*g*) See *ante*, p. 199.

(*h*) The following forms, as well as the above, are also given by the statute.

may levy the sum of —, pursuant to his warrant for that purpose, dated the — day of —. Given under my hand, this — day of —, 1842.

4. *Commitment thereupon to the House of Correction.*

Kent, } To the constable of —, and also to the keeper of the house of correction
to wit. } at —.

Whereas in pursuance of an act made in the eighteenth year of his late Majesty King George the Third, intituled &c. [*as before*], I, J. P., esquire, one of her Majesty's justices of the peace in and for the said —, did issue my warrant of distress and sale, directed to — of —, constable of the said parish of —, ordering the said constable to levy the said sum of —, of the goods and chattels of the said —, in manner and form as therein is mentioned; and whereas it appears to me, by the return of the said constable, dated the — day of —, that he hath made diligent search, but doth not know of, nor can find, any goods and chattels of the said —, by distress and sale whereof the said sum of — may be levied, pursuant to the said warrant: These are therefore to command you, the said constable, to apprehend the said —, and convey him to the said house of correction at —, and to deliver him there to the said keeper of the said house of correction; and these are also to command you the said keeper of the said house of correction to receive the said — into the said house of correction, there to be kept to hard labour for the space of — from the date hereof, or until such sum of —, together with the expenses attending the commitment of the said — to the said house of correction, be first paid, or until the said — be discharged by due course of law. Given under my hand and seal at —, the — day of —, 1842.

Cotton Factories—See Factories.

County Rate.

By 12 Geo. 2, c. 29, in case the churchwardens and overseers of any parish shall neglect to pay any sum thereby assessed (for the county rate), after demand made on them by the high constable of the hundred, the same may be levied by distress, by warrant under the hands and seals of two justices.

By 55 Geo. 3, c. 51, s. 3, the justices within their several divisions may be required, by an order of the general or quarter sessions, to meet from time to time for the purpose of receiving the returns of the constables, churchwardens, overseers, assessors, and collectors in the act mentioned, in regard to the county rate, whom they may examine on oath touching any matters contained in such returns; and they are to report their proceedings to the sessions.

Penalty on Officers not making Returns.—By sect. 5, in case of any default by the constables and other officers in making the returns

required by the precept of the quarter sessions, the justices in petty sessions, or any two of them, may issue their precepts to any officers making default to make their returns; and in case any officer shall neglect to do so, he is liable to a penalty not exceeding 20*l.*, to be levied by distress.

Power of Justices where no Return is made.—By *sect. 6*, if default be made in making the returns required by the act, the justices assembled at the quarter sessions, or at the *petty sessions*, may ascertain the annual value of the property chargeable to the county rate within any parish or place for which no return has been made; and the justices in general or quarter sessions, acting on their own discretion, or on the report of any two justices for any division of a county, shall order a reasonable compensation to be made to the persons employed in ascertaining such annual value; and all such expenses as shall be thereby incurred shall be charged upon the parish or place making default, in addition to their proportion of the county rate, and be levied in the same manner.

Where there are no Overseers, or the Return is insufficient.—By *sect. 7*, where there are no churchwardens, or overseers, or no poor's rate, or the returns are insufficient, the justices assembled as aforesaid may summon before them any of the substantial inhabitants, or any other person, to give evidence as to the fair annual value of such rateable property, and to examine them on oath. And by *sect. 8*, the justices so assembled, or those resident in and acting for any division of the county, at any petty sessions, may appoint any person to act as overseer, who shall be vested with full powers.

Justices may compel production of Books of Assessment, &c.—By *sect. 9*, any two justices may cause the books of assessment of any rates or taxes to be brought before them, or may direct copies or extracts to be taken from them, or may call before them any constable, churchwarden, overseer, assessor, or collector, to give evidence respecting the same, such compensation being made to the persons employed for such purpose as the justices may think reasonable. If any person, in whose custody such books may be, shall neglect to attend with them, or not permit such copies or extracts to be taken, or refuse to give evidence, he incurs a penalty not exceeding 10*l.* The justices may also cause copies of the total amount assessed in each parish in respect of any taxes, and the total amount of the valuation of the property on which such assessments were made in any year, to be made out by the clerk to the commissioners, such compensation being made

to him as any two justices shall think reasonable. If the clerk neglects to make such copies within a reasonable time after his receipt of the order of the justices, he incurs a penalty of 20l.

Power of Officers to enter on Lands to ascertain their annual value.—By sect. 10, the churchwardens and overseers, and chief constables, or such other persons as they may select, may, by warrant under the hands and seals of two justices assembled in general or quarter sessions, enter upon any lands to ascertain their annual value, giving fourteen days' previous notice to the person whose lands are to be entered.

Justices to certify annual value to the Sessions.—By sect. 11, whenever the justices in petty sessions shall have ascertained the fair and just annual value of the rateable property within their respective divisions, they are required to certify the true amount thereof to the then next general or quarter sessions.

Rate may be levied by Distress on Overseer.—By sect. 12, if any overseer shall neglect to pay the county rate within the time limited for that purpose to the high constable of the division within which the overseer resides, any justice, upon complaint of the high constable, may, by warrant under his hand and seal, levy the same by distress.

Recovery and application of Penalties, &c.—By sect. 22, the penalties may be levied by distress, not only in the county in which the offence shall have been committed, but in any other county, provided the warrant is endorsed by some justice of the peace in the latter county (i). In default of distress, commitment to the common gaol not exceeding three calendar months. The forfeitures are to be paid to the treasurer of the county in aid of the county rate. No witness to be deemed incompetent, by reason of his liability to the county rate or poor rate.

By sect. 23, there is the usual restriction as to bringing actions, which must be commenced within three calendar months after the fact committed, and the venue laid in the same county; the general issue may be pleaded and the act given in evidence; and if the defendant succeeds in the action, he is entitled to double costs.

Where places have separate Commissions of the Peace.—By sect.

(i) This provision was wholly unnecessary, as the 33 Geo. 3, c. 55, s. 3, contains a general enactment on the subject. See post, title *Distress*.

24, where any ridings or divisions have separate commissions of the peace, or where any cities, towns, or other places have commissions of the peace within themselves, and are not subject to the jurisdiction of such commissions for the counties at large, the justices of such separate jurisdictions are invested with all the powers and authorities given by the act.

Extra-parochial places.—By 56 Geo. 3, c. 49, extra-parochial and other places, though not deemed rateable to the relief of the poor, are declared subject to be rated to the county rate.

Ascertaining boundaries of Counties, &c.—By *sect. 2*, when any doubt arises concerning the boundary between any counties, &c., the justices in general or quarter sessions may appoint two justices of each such county, &c. for the purpose of determining the same; for which purpose they may enter upon any lands, &c., and summon witnesses and impose a penalty, not exceeding 10*l.*, upon any witness making default, recoverable as any other penalty under the 55 Geo. 3, c. 51.

The 57 Geo. 3, c. 94, regulates the right of *appeal* against any county rate.

By 1 & 2 Geo. 4, c. 85, s. 1, all the powers of the previous acts are to extend to places where there are no separate churchwardens, &c., or where no separate or distinct poor rate is made for any place extending into two or more counties.

By *sect. 2*, in extra-parochial places where no poor rate is made, the justices may appoint persons to tax and assess the county rate, although they do not reside within such extra-parochial place.

Distress.—By *sect. 3*, the goods of persons liable to pay rates may be seized by warrant of distress, in any other place than the place of assessment, and in any other county, subject to an *appeal* to the next sessions. And by *sect. 4*, a similar provision is made with respect to a warrant of distress for any penalty incurred under this, or any of the former acts; a provision just as unnecessary as that contained in the 55 Geo. 3, c. 51, s. 22 (*k*).

1. *Summons of High Constable for not paying County Rate to the Treasurer.*

County of } To A. B., high constable of the hundred of —, in the county of —.

Whereas information and complaint have been made before us, J. P. and W. O., esquires, two of her Majesty's justices of the peace in and for the said county, by A. B., gentleman, treasurer of the public stock of the said county, that you the said A. B. have

(*k*) See *ante*, p. 209, note.

neglected and refused to pay to the said A. B. the sum of £——, being the amount now due and owing from you to the public stock of the said county, and which said sum of £—— has or ought to have been received and levied by you from the overseers of the poor of the respective parishes and townships within your said hundred of ——: These are therefore to summon you, the said A. B., to appear before us, at ——, in the said county, on the —— day of —— next, at the hour of —— in the forenoon, to answer to the said information and complaint, and to be further dealt with according to law. Given under our hands and seals, the —— day of ——, 1842.

2. Summons of Overseers for not paying the County Rate to the High Constable.

County of } To C. D. and E. F., overseers of the poor of the township [or "parish"]
 ——, } of ——, in the said county.

Whereas information and complaint have been made before me, J. P., esquire, one of her Majesty's justices of the peace in and for the said county, by A. B., high constable of the hundred of ——, in the said county, that you, the said overseers of the poor of the said township [or "parish"] of —— were, in pursuance of his warrant for that purpose to you directed, ordered and required to levy, collect, and pay to the said A. B. the sum of ——, within the space of —— days from the receipt [or "date," *as the case may be*] of the said warrant, being the proportion of your said township [or "parish"] for and towards the general county rate, and that you the said overseers (although you received the said warrant on, &c.) have refused and neglected, and still do refuse, to pay the same: These are therefore to summon you, the said overseers, to appear before me, at ——, in the said county, on —— next, at the hour of —— in the forenoon, to answer to the said information and complaint, and to show cause why a warrant of distress should not issue forthwith to levy the said sum of —— upon your goods and chattels, according to the directions of the statute in such case made and provided. Given under my hand and seal, the —— day of ——, in the year of our Lord 1842.

J. P.

3. Warrant of Distress thereon.

County of } To the high constable of the hundred of ——, in the said county of
 ——, } ——.

Whereas, at the general [or "quarter"] sessions of the peace holden in and for the said county of ——, on &c., a rate or assessment was duly made for the purposes of the said county, pursuant to the statute made in that behalf, in the 55th year of the reign of his late Majesty King George the Third, and the township [or "parish"] of ——, in the said county, was thereby duly rated and assessed in the sum of £—— of lawful money of Great Britain: And whereas by virtue of an order of her Majesty's justices of the peace of the said county in their general [or "quarter"] sessions assembled, on &c., a warrant was duly issued to you, the high constable of the hundred of ——, in the said county, ordering and requiring you to issue your warrant to the overseers of the poor of the said township [or "parish"] to levy, collect and pay the said rate or assessment of £—— to you the said high constable, within the space of —— then next following, and which you were thereby directed to pay within the space of —— into the hands of the treasurer of the said county, to be applied and disposed of in the manner and for the purposes in the said warrant in that behalf mentioned:

And whereas the said overseers have neglected and refused, and still neglect and refuse, to pay the same to you the said high constable, and you have thereof made complaint to me, J. P., esquire, one of her Majesty's justices of the peace in and for the said county: And whereas C. D. and E. F., the overseers of the poor of the said township [or "parish"] having appeared before me, in pursuance of my summons for that purpose, have not showed to me any sufficient cause why the same should not be paid: These are therefore to require you forthwith to make distress of the goods and chattels of them the said overseers, and if within the space of — days next after such distress by you taken, the sum of £——, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and out of the money arising by such sale that you detain the said sum of £——, and also your reasonable charges of taking, keeping, and selling the said distress, rendering to them, the said overseers, the overplus on demand. Given under my hand and seal, this — day of —, 1842.

J. P. (L. s.)

Criminal Information—When it will be granted against a magistrate, see *post*, **Justices**.

Crops, growing—Firing them, see **Arson**.

Cruelty to Animals—See **Cattle**.

Cursing—See **Swearing**.

Customs.

And see **Smuggling, Excise**.

IT would be far beyond the compass of this work to specify the various penalties imposed for the innumerable offences relating to the Customs; and there is the less occasion to do so, as no prosecutions can be instituted for such offences, except by the order of the commissioners of the Customs or Excise (*l*), whose solicitor, or the agent employed by him, prepares all the proceedings that are necessary for the conviction of the offender. It must suffice, therefore, under this head, merely to notice the several statutes now in force relating to the Customs, and to refer to the title **Smuggling**, for the provisions of the law in this respect relating to the general jurisdiction of justices of the peace.

(*l*) See 7 & 8 Geo. 4, c. 53, s. 61.

By 3 & 4 Will. 4, c. 50, all the former acts relating to the customs are repealed (*m*), as well as all former acts (with certain exceptions) relating to navigation and the prevention of smuggling; and in the same session the following acts were passed on these subjects.

3 & 4 Will. 4, c. 51, for the *management* of the customs.

3 & 4 Will. 4, c. 52, for the *general regulation* of the customs.

3 & 4 Will. 4, c. 53, for the prevention of *smuggling*, for which see *post*, title *Smuggling*.

3 & 4 Will. 4, c. 54, for the encouragement of British *shipping and navigation*.

3 & 4 Will. 4, c. 55, for the *registering* of British vessels. And see *post*, *Ships*.

3 & 4 Will. 4, c. 56, for granting *duties* of customs.

3 & 4 Will. 4, c. 57, for the *warehousing* of goods.

3 & 4 Will. 4, c. 58, for granting certain *bounties and allowances* of customs.

3 & 4 Will. 4, c. 59, to regulate the *trade* of the *British possessions abroad*.

3 & 4 Will. 4, c. 60, for regulating the *trade* of the *Isle of Man*.

3 & 4 Will. 4, c. 61, to admit *sugar* without payment of duty to be *refined for exportation*.

The above acts occupy no less than 148 closely printed pages in the statute book. Since their enactment the following acts have been added to the number:—

4 & 5 Will. 4, c. 89, to *amend* the laws relating to the customs.

5 & 6 Will. 4, c. 56, for the same purpose.

6 & 7 Will. 4, c. 60, for the same purpose.

1 & 2 Vict. c. 113, for the like purpose.

3 & 4 Vict. c. 17, for granting additional duties of customs.

—◆—

Cutlers.

By 59 Geo. 3, c. 7, s. 1, for the regulation of the *cutlery* trade, where articles of cutlery are formed by the *hammer*, manufacturers may mark them with the figure of a *hammer*.

False marks on Cast Cutlery.—By *sect. 3*, every person who shall cast, mark, strike, stamp, grave, or impress, or cause, direct, or pro-

(*m*) These acts, in number 22, had only been passed in the short interval that had elapsed since the 6 Geo. 4, c. 105, which repealed all the previous statutes

on this subject, in number 443,—a tolerable specimen of the prolific nature of revenue legislation.

cure to be cast, &c. in or upon any articles of cutlery, edge-tools, and hardware requiring a cutting edge, which shall have been cast or formed in a mould, or otherwise than by means of the hammer, previous to the *bonâ fide* sale thereof to the user, the figure or form of a *hammer*, or any symbol or device resembling a *hammer*, or having any similitude thereto, or who shall have in his possession for the purpose of sale, or who shall sell, expose, or offer to sale, or cause, direct, or procure to be sold, &c. any articles of cutlery, &c. which shall have been cast, &c. having marked or struck thereon the figure or form of a *hammer*, or any symbol, &c., shall forfeit all such articles, together with the sum of 5*l.*, for any quantity not exceeding a dozen, and for any larger quantity 5*l.* per dozen.

False marks on any Cutlery, whether wrought or cast.—By sect. 4, every person who shall cast, mark, &c., or cause or procure &c., any articles of cutlery, &c. forged or formed with the hammer, of wrought steel, or iron and steel, or cast in a mould, previous to the *bonâ fide* sale thereof to the user, any word or words which shall or may denote or indicate the quality of such articles to be otherwise than the true quality, or who shall have in his possession for the purpose of sale, or shall sell, expose, or offer for sale, or cause to be sold, &c. any of such articles, shall forfeit the same, together with 5*l.*, for any quantity under a dozen, and 5*l.* per dozen for any larger quantity.

By sect. 5, every person who shall cast, mark, &c. in or upon any part of any articles of cutlery, &c. forged or formed with the hammer, of wrought steel, or iron and steel, or cast in a mould, previous to the *bonâ fide* sale thereof to the user, the word or words "*London*," "*London made*," or any word or words having any similitude thereto, unless the articles so marked shall have been manufactured within the city of London; or within twenty miles distance therefrom, or who shall have in his possession for the purpose of sale, or shall sell, expose, or offer to sale, or cause to be sold, &c. any such articles of cutlery, shall forfeit the same, together with 10*l.*, for any quantity under a dozen, and 10*l.* per dozen if exceeding that number.

Protection to Purchasers.—By sect. 7, in case any person having in his possession any articles marked contrary to the directions of the act, who shall, before any information laid, prove satisfactorily, by the oath of himself before a justice, that he purchased the articles, without knowing that they were improperly marked, and shall discover to two justices the name of the person from whom he purchased them, so that such person shall be prosecuted to conviction, he is ex-

cused from the penalties, and is entitled to two thirds of the penalty, as other informers.

Recovery of Penalties.—By *sect. 8*, two justices may hear and determine any offence, upon information and summons, and, upon due proof thereof by *one witness*, may convict the offender in the penalty incurred, which may be levied by *distress*; in default of which they may commit the offender to gaol for not more than three calendar months.

Appeal to the next session, *sect. 9*.

Mitigation of Penalties.—By *sect. 10*, the justices may mitigate the penalties, but not to less than one half; or, if they shall be less than 50*l.*, then not to less than 25*l.*

By *sect. 11*, no conviction to be set aside for want of form; and *sect. 12* gives a general form of conviction.

Witnesses.—By *sect. 13*, if any witness, after being summoned, neglects to appear, or refuses to give evidence, he is liable to a penalty of 10*l.*; and by *sect. 17*, parishioners are to be competent witnesses.

Power of Seizure.—By *sect. 14*, any justice may, by warrant under his hand and seal, cause any such articles of cutlery to be seized as are liable to forfeiture, for the purpose of producing them in evidence upon any prosecution.

Limitation of Time.—By *sect. 15*, no information shall be exhibited, unless within six calendar months after the commission of the offence.

Application of Penalties.—One third part of the penalties to go to the poor of the parish, and the rest to the informer.

Indemnity to Informers.—By *sect. 18*, in case any person, who shall be liable to any penalty by reason of anything done by him under the order, direction, or procurement of any other person, shall, before any information against him, discover to two justices the name of the person by whose order he acted, so that such person shall be prosecuted to conviction,—he shall not then be liable to any penalty, but shall be entitled to two-thirds of it, as other informers.

Conviction (n), under 59 Geo. 3, c. 7, s. 3, for exposing to sale Cast Cutlery marked with a Hammer.

Kent, } Be it remembered, that on the — day of —, in the year of our Lord
to wit. } 1842, at — in the county of Kent, A. B. came before us, J. P., and
W. O., esquires, two of her Majesty's justices of the peace for the said county, and

(n) This form is given by the 12th section of the statute.

informed us that C. D. of &c., on the — day of — now last past, at — in the said county, did expose and offer to sale two knives and two razors, which had been cast and formed in a mould, having marked and struck thereon the figure and form of a hammer, contrary to the form of the statute in such case made and provided : Whereupon the said C. D., after being duly summoned to answer the said charge, appeared before us on the — day of —, at — in the said county, and having heard the said charge contained in the said information, declared he was not guilty of the said offence [*or as the case may happen to be*, “ did not appear before us pursuant to the said summons,” or “ did neglect and refuse to make any defence against the said charge ”]; but the same being fully proved before us, upon the oath of J. K. a credible witness [*or as the case may happen to be*, “ acknowledged and voluntarily confessed the same to be true ”], and it manifestly appeared to us that the said C. D. is guilty of the offence charged upon him in the said information ; we do therefore hereby convict him of the offence aforesaid, and do declare and adjudge that he the said C. D. hath forfeited the said knives and razors, together with the sum of 5*l.* of lawful money of Great Britain, for the offence aforesaid, to be distributed as the law directs, according to the form of the statute in that case made and provided. Given under our hands and seals, the — day of —, 1842.

J. P. (L. S.)

W. O. (L. S.)

Cutting—With intent to murder, see **Murder** ; with intent to maim, see **Maiming**.

Damage to Property—See **Mischief**.

Dead Bodies.

BURIAL of those cast ashore.]—By 48 Geo. 3, c. 75, s. 1, where dead human bodies are cast on shore from the sea by wreck, or otherwise, the churchwardens or overseers of the parish, where the body shall be found, are required to cause the interment of it in a decent manner in the churchyard of such parish. And by *sect. 2*, the minister, parish clerk, and sexton of the parish are bound to perform their respective duties as in the case of other funerals, receiving the same fees as in cases of burials made at the expense of the parish.

Penalty for not giving notice of finding them.]—By *sect. 4*, if any person shall find any such body, and shall not within six hours give notice to one of the churchwardens or overseers of the parish where the body is found, or to the constable or headborough, in case the body is found in any extra-parochial place, or cause such notice to be left at his last or usual place of abode, he is liable to a penalty of 5*l.*

Costs of Burial, &c.—By *sect. 6*, any justice for the county or place in which the body shall have been removed and buried, may, by any writing under his hand, order the treasurer of the county to pay such sum to the churchwardens, overseers, &c., for their costs and expenses in or about the execution of the act, (after the same shall be verified on oath,) as to the justice shall seem reasonable.

Penalty on Churchwardens for not performing their duties.—By *sect. 7*, if any churchwarden, overseer, constable, or headborough, shall neglect to remove, or cause to be removed, such body from the sea-shore to some convenient place prior to the interment thereof, for the space of twelve hours after such notice given to him, or left in writing at his last or usual place of abode, or shall neglect to perform the several other duties required of him by the act, he is liable to a penalty of 5*l*.

Recovery of Penalties.—By *sect. 8*, all penalties may be levied and recovered by *distress*, by warrant under the hand and seal of one justice, the whole of which are to be paid to the informer. In default of distress, the justice may commit the offender to the common gaol or house of correction for not more than two calendar months, nor less than fourteen days. And by *sect. 11*, the distress is not to be void for want of form.

By *sect. 9* a general form of conviction is given; and by *sect. 10*, an *appeal* to the first sessions after one calendar month from the time such matter of appeal shall have arisen.

It is remarkable, that although a general form of conviction, and a power of distress, are given by the above statute, there is no where given to the magistrate any express authority to *convict*. Such an authority was no doubt intended, and may be said to be *implied* by the power to issue a warrant of distress; but in the construction, and still more in the *execution*, of penal statutes, it is unsafe to be guided solely by inference.

1. *Order for reimbursement of Overseers, on 48 Geo. 3, c. 75, s. 6.*

Kent, }
to wit. } To the treasurer of the county of —.

I, J. P., esquire, one of her Majesty's justices of the peace for the county of —, having inquired into and ascertained upon oath, the payments, costs, charges, and expenses in the account annexed, amounting to the sum of £—, incurred by the overseers of the poor of the parish of — in the said county, by reason of a dead human body having been found cast by the sea on the shore of the aforesaid parish, on the — day of —, and interred by the said overseers of the poor, at the like fees and charges as in cases of burials made at the expense of the said parish, do hereby

order you, immediately on sight hereof, to pay unto A. O., overseer of the poor of the before-mentioned parish, the said sum of £——, according to an act passed in the forty-eighth year of the reign of his late Majesty King George the Third, intituled “An Act for providing suitable Interment in Churchyards or parochial Burying Grounds in England, for such dead Human Bodies as may be cast on Shore from the Sea in Cases of Wreck, or otherwise,” and the same will be allowed you in your accounts. Given under my hand at ——, in the said county of ——, this —— day of ——, in the year of our Lord 1842. J. P.

2. *Information on 48 Geo. 3, c. 75, s. 4, for finding dead Human Bodies cast on shore, and not giving notice thereof.*

Kent, } Be it remembered, that on &c., at &c., A. B. of &c., cometh before me, to wit. } J. P., esquire, one of her Majesty's justices of the peace for the said county, and informeth me that C. D., late of —— in the said county, labourer, on the &c., at &c., did find a certain dead human body there cast on shore from the sea by wreck, or otherwise, and did not within six hours thereafter give notice thereof to any one of the churchwardens or overseers of the said parish of ——, in which such dead human body was so found as aforesaid, or cause such notice to be left at the last usual place of abode of any such churchwarden or overseer, contrary to the form of the statute in such case made and provided; whereby the said C. D. hath forfeited for his said offence the sum of 5*l.*; wherefore the said A. B. prayeth that the said C. D. may be summoned to appear before me the said justice to answer the premises, and to be dealt with according to law.

3. *Conviction (o) thereon.*

Kent, } Be it remembered, that on this —— day of ——, in the —— year of to wit. } the reign of &c., A. B. is convicted before me, J. P., esquire, one of her Majesty's justices of the peace for the county of Kent, for that he the said A. B. on &c., at &c., did find [*state the offence as in the last precedent*]; wherefore I the said justice do adjudge him to forfeit and pay for the same the sum of £——. Given under my hand and seal the day and year aforesaid.

4. *Information against Parish Officers, on 48 Geo. 3, c. 75, for neglecting to remove and inter dead Human Bodies cast on shore.*

Kent, } Be it remembered, &c. [*as in form No. 1*], and informeth me that on &c., to wit. } at the parish of ——, in the said county, a certain dead human body was cast on shore from the sea by wreck, or otherwise, and notice thereof was then and there given to one C. D., one of the overseers of the said parish; and that the said C. D., well knowing the premises, did nevertheless then and there neglect to remove, or cause to be removed, the said body from the sea-shore to some convenient place, prior to the interment thereof, for the space of twelve hours next after the said notice so given as aforesaid, contrary to the form of the statute in such case made and provided; whereby &c. [*as before*].

(o) This form of conviction is given by the 9th section of the statute.

Debating Societies—See **Combinations, Disorderly House.**

Deceit—See **False Pretences.**

Deer.

TAKING or *killing them in any inclosed Land.*—By 7 & 8 Geo. 4, c. 29, s. 26, if any person shall unlawfully and wilfully course, hunt, snare, or carry away, or kill or wound, or attempt to kill or wound, any deer kept or being in the *inclosed* part of any forest, chase, or purlieu, or in any inclosed land whercin deer shall be usually kept; *Felony*; punishable in the same manner as simple larceny.

In Land uninclosed.—By the same section, if any person shall commit the same offence in an *uninclosed* part of any forest, chase, or purlieu, he shall, on conviction thereof, before a justice of the peace, forfeit not exceeding 50*l*.

Second Offence.—By the same section, if any person, who shall previously have been convicted of any offence relating to deer, for which a pecuniary penalty is imposed by the act, shall offend a second time by committing any of the offences before committed, such second offence, whether it be of the same description as the first offence, or not, shall be deemed *Felony*, punishable as in the case of simple larceny.

Having in Possession.—By *sect. 27*, if any deer, or the head, skin, or other part thereof, or any snare or engine for the taking of deer, shall, by virtue of a search warrant, be found in the possession of any person, or on his premises, with his knowledge, and upon being carried before a justice of the peace, he shall not satisfy the justice that he came lawfully by such deer, or the head, skin, or other part thereof, or had a lawful occasion for such snare or engine, and did not keep the same for any unlawful purpose,—he shall, on conviction by the justice, forfeit and pay not exceeding 20*l*. But if such person shall not be liable to conviction, then, for the discovery of the party who actually killed or stole such deer, the justice may summon before him every person through whose hands such deer, or such part thereof, shall appear to have passed; and if the person from whom the same shall have been first received, or who shall have had pos-

session thereof, shall not satisfy the justice that he came lawfully by the same, he shall, on conviction, be liable to the same penalty.

Setting Snares.—By sect. 28, if any person shall unlawfully and wilfully set or use any snare or engine whatsoever, for the purpose of taking or killing deer, in any part of any forest, chase, or purlieu, whether such part be inclosed, or not, or in any fence or bank dividing the same from any land adjoining, or in any inclosed land where deer shall be usually kept, or shall unlawfully and wilfully destroy any part of the fence of any land where any deer shall be then kept,—he is liable, on conviction before a justice, to a penalty not exceeding 20*l*.

Keepers may demand and seize Guns.—By sect. 29, if any person shall enter into any forest, chase, or purlieu, whether inclosed, or not, or into any inclosed land where deer shall be usually kept, with intent unlawfully to hunt, course, wound, kill, snare, or carry away any deer, every person entrusted with the care of such deer, and any of his assistants, whether in his presence, or not, may demand from such offender any gun, fire-arms, snare, or engine in his possession, and any dog there brought for hunting, coursing, or killing deer, and in case he shall not immediately deliver up the same, may seize and take the same from him in any of those respective places, or, upon pursuit made, in any other place to which he may have escaped therefrom, for the use of the owner of the deer. If any such offender shall unlawfully beat or wound any person entrusted with the care of the deer, or any of his assistants, in the execution of any of the powers given by the act, he is guilty of *Felony*, punishable in the same manner as simple larceny.

Apprehension of Offenders.—By sect. 63, any person found committing any of the above offences may be immediately apprehended, without a warrant, by any peace officer, or by the owner of the property, on or with respect to which the offence shall be committed, or by his servant, or any person authorized by him, and forthwith taken before some neighbouring justice. And any person, to whom any property shall be offered to be sold, pawned, or delivered, if he shall have reasonable cause to suspect that any such offence has been committed on or with respect to such property, is authorized, and, if in his power, is required, to apprehend, and forthwith carry the party before a justice, together with the property in question.

Search Warrants.—By the same section, if any credible witness shall prove on oath, before a justice, a reasonable cause to suspect

that any person has in his possession, or on his premises, any property whatever, on or with respect to which any such offence shall have been committed, the justice may grant a warrant to search for such property, as in the case of stolen goods.

Limitation for Prosecutions.]—By *sect. 64*, where the offence is punishable on summary conviction, the prosecution must be commenced within three calendar months after the commission of the offence. The evidence of the party aggrieved is admissible, as well as that of inhabitants of counties, &c.

Summons and Warrant.]—By *sect. 65*, if a party charged with an offence does not appear before the justice after being summoned, then, on proof of personal service of the summons, or by leaving the same at his usual place of abode, the justice may either proceed *ex parte*, or issue his warrant for apprehending the party. But the justice may, if he think fit, without any previous summons, issue a warrant against the offender in the first instance.

Application of Penalties.]—By *sect. 66*, every sum which shall be forfeited for the value of any property stolen or taken, or for the amount of any injury done (such value or amount to be assessed by the convicting justice) shall be paid to the party aggrieved, if known, except where he shall have been examined in proof of the offence, and in that case, or where such party is unknown, the same shall be applied in like manner as a penalty. And every penalty is to be paid to one of the overseers of the parish in which the offence is committed, for the use of the county rate.

Commitment for Non-payment.]—By *sect. 67*, upon non-payment of any penalty, the justice may commit the offender to the common gaol or house of correction, with or without hard labour, for not more than two calendar months, where the penalty, with the costs, shall not exceed 5*l.*; for not more than four calendar months, where the same shall not exceed 10*l.*; and not more than six calendar months in any other case.

By *sect. 71* a general form of conviction is given; and by *sect. 72* an *appeal* to the next sessions.

By *sect. 73*, no conviction to be quashed for want of form, or removed by *certiorari*, and no warrant of commitment to be void for any defect, if it allege the party to have been convicted, and there be a good and valid conviction.

By *sect. 74*, convictions must be returned to the quarter sessions.

Limitation as to Actions.—By sect. 75, all actions for any thing done in pursuance of the act must be brought in the county where the fact was committed, and notice in writing must be given to the defendant one calendar month previously. The defendant may plead the general issue, and give the special matter in evidence, and may tender amends, or pay money into court, and if he recover in the action, he is entitled to full costs as between attorney and client; and though the plaintiff recover a verdict, he is not to have costs, unless the judge shall certify.

1. *Commitment on 7 & 8 Geo. 4, c. 29, s. 26, for stealing Deer in inclosed Land (p).*

Kent } To the constable of —, in the said county, and to the keeper of the
to wit. } common gaol at —, in the said county.

These are to command you, the said constable, in her Majesty's name, forthwith to convey and deliver into the custody of the said keeper of the said common gaol the body of C. D., charged this day before me, J. P., esquire, one of her Majesty's justices of the peace for the said county, on the oath of A. B., for that he the said C. D., on the — day of —, A. D. 1842, at the parish of — in the said county, in a certain inclosed land there situate, the property of A. B., wherein deer had been and then were usually kept, one deer, the property of the said A. B., then and there kept, and being in the said inclosed land, unlawfully, wilfully and feloniously did kill and carry away, against the form of the statute in that case made and provided: And you the said keeper are hereby required to receive the said C. D. into your custody in the said common gaol, and him there safely keep, until he shall be thence delivered by due course of law. Given under my hand and seal, this — day of —, in the year of our Lord 1842.

2. *Conviction (q) under the same section for killing Deer in an uninclosed Forest, &c.*

Hampshire, } Be it remembered that on, &c., at, &c., C. D., late of, &c., is con-
to wit. } victed before me J. P., esq. one of her Majesty's justices of the peace for the said county, for that he, the said C. D., on, &c., at the parish of, &c., in a certain uninclosed part of a certain forest called the New Forest, there situate, one deer of the value of 40s. then and there kept and being in the said uninclosed part of the said forest, unlawfully and wilfully did kill and carry away, against the form of the statute in that case made and provided: I, the said J. P., do therefore adjudge the said C. D. for his said offence, to forfeit and pay the sum of 50*l.*, and also to pay the sum of — shillings for costs, and in default of immediate payment of the said sums, to be imprisoned in the —, and there to be kept to hard labour for the space of — calendar months, unless the said sum shall be sooner paid; and I direct that the said sum of 50*l.* shall be paid to A. B., one of the overseers of the parish aforesaid, in which the said offence was committed, to be by him applied according to the directions of the statute in that case made and provided; and I order that the sum of — shillings for costs shall be paid to M. W., the complainant. Given under my hand and seal the day and year first above mentioned.

(p) See *ante*, p. 219.

(q) This form of conviction is given by the 71st section of the statute.

3. *Commitment under the same section, for a second Offence in killing Deer in an uninclosed Forest.*

Hampshire, } [As in the form No. 1,] for that he, the said C. D., on &c., at &c.,
to wit. } in a certain uninclosed part of a certain forest called the New Forest
there situate, one deer, then and there being, unlawfully, wilfully and feloniously did
kill and carry away, against the form of the statute in that case made and provided; he
the said C. D., having been previously convicted on the — day of — before
J. P., esquire, one of her Majesty's justices of the peace in and for the said county of
—, for having unlawfully and wilfully killed and carried away a certain other deer in
the uninclosed part of the said forest: And you the said keeper [to the end of the first
precedent.]

4. *Warrant, on 7 & 8 Geo. 4, c. 29, ss. 27, 63, to search for Venison or Engines, &c. (r)*

Kent, }
to wit. } To the constable of —, and others whom this may concern.

Whereas A. B., of &c., hath this day made oath before me, J. P., esquire, one of
her Majesty's justices of the peace in and for the said county, the said A. B. being a
credible witness in this behalf, that he the said A. B., hath reasonable cause to suspect,
and doth suspect, that C. D., of — in the same county, labourer, hath in his pos-
session, or on his premises, and with his knowledge, a deer, or some part thereof,
which hath been unlawfully carried away from the inclosed land of G. H., esquire,
wherein deer are usually kept: These are therefore, in the Queen's name, to authorize
and require you, with necessary aid and proper assistants, to enter in the day-time into
the dwelling-house and premises of the said C. D., at — aforesaid, and there dili-
gently to search for the said deer, or such part thereof, as aforesaid; and if the said deer,
or any part thereof, shall be found upon such search, that you bring the same, and also
the body of the said C. D., before me, to be disposed of and dealt with according to
law. Herein fail you not. Given under my hand and seal, in the county aforesaid,
this — day of —, A. D. 1842.

J. P. (L. S.)

5. *Conviction (s) under the same section, for not accounting for the possession of Venison, &c.*

Kent, } Be it remembered, that on &c., at — in the county of — C. D. is
to wit. } convicted before me, J. P., esq., one of her Majesty's justices of the peace for
the said county, for that he the said C. D., on &c., at the parish of &c., had in his pos-
session, and on his premises at — aforesaid, with his knowledge, a certain part, to wit,
the head and fore quarters of a deer, which had been unlawfully carried away from the
inclosed land of G. H., esquire, wherein deer are usually kept; and that upon such
part being found in his possession, and on his premises, as aforesaid, by virtue of a cer-
tain search warrant granted by me for that purpose, the said C. D. was brought before
me, the said justice, now here to account for his possession of such part of the said
deer as was so found on his premises as aforesaid: And the said C. D., being asked by
me what he hath to say in his defence, hath not satisfied me, the said justice, that he
came lawfully by such part of the said deer, but hath altogether failed in so doing,
against the form of the statute in that case made and provided: Whereupon I, the
said J. P., do adjudge the said C. D., for his said offence, to forfeit and pay the sum
of 20*l.*, and also to pay the sum of — shillings for costs, and in default of immediate

(r) See *ante*, p. 220.

(s) This form of conviction is given by the 71st section.

payment to be imprisoned in the —, and there kept to hard labour for the space of — calendar months, unless the said sums shall be sooner paid; and I direct that the said sum of 20*l.* shall be paid, &c. [*as in the form No 2, to the end.*]

6. *Summons, under the same section, of the person through whose hands such Venison may have passed.*

Kent, }
to wit. } To the constable of —, and others whom this may concern.

Whereas a certain part, to wit, the head and fore quarters of a deer, which had been unlawfully carried away from the inclosed land of G. H., esquire, wherein deer are usually kept, was on the — day of —, by virtue of a search warrant, found on the premises of one C. D., at — in the county aforesaid; and the said C. D. being thereupon brought before me, J. P., esquire, one of her Majesty's justices of the peace for the county aforesaid, I was informed and given to understand that the said part of the said deer so found as aforesaid had passed through the hands of E. F., of — in the county aforesaid, labourer, to the possession of the said C. D.: These are therefore to require you forthwith to summon the said E. F. to appear before me at — in the said county, on &c., at the house of &c., in the forenoon of the same day, to answer to the said information, and to satisfy me that he hath come lawfully by such part of the said deer so passing through his hands as aforesaid, and to be further dealt with according to law: And be you then there to certify what you shall have done in the premises. Herein fail you not. Given under my hand and seal this — day of —, in the year of our Lord 1842.

7. *Conviction thereon.*

Kent, }
to wit. } Be it remembered, that on &c., at &c., E. F. is convicted before me, J. P., esq., one of her Majesty's justices of the peace for the said county, for that on &c., at &c., a certain part, to wit, the head and fore quarters of a deer, which had been unlawfully carried away from the inclosed land of G. H., esquire, wherein deer are usually kept, having been then and there found in the possession of one C. D., of — in the county aforesaid, labourer, by virtue of a search warrant by me issued for that purpose, the said C. D. was on &c., at &c., brought before me the said justice, to account for his possession of such part of the said deer; when it appeared to me, the said justice, that the said C. D. was not liable to conviction for having such part of the said deer in his possession, under the statute in that case made and provided; and I, the said justice, being then and there informed and given to understand that the said part of the said deer had passed through the hands of the said E. F. to the possession of the said C. D., I, the said justice, then and there duly summoned the said E. F. to appear before me on &c., at &c., for the discovery of the party who actually killed or stole the said deer, to satisfy me that he had come lawfully by the said part of the said deer so passing through his hands as aforesaid: And the said E. F., being now asked by me, the said justice, what he hath to say in his defence, hath not satisfied me that he came lawfully by the said part of the said deer which so passed through his hands to the possession of the said C. D.; against the form of the statute in that case made and provided: Whereupon I, the said J. P., do adjudge the said E. F., for his said offence, to forfeit and pay the sum of 20*l.* &c. [*as in form No. 5, to the end.*]

8. *Conviction, under 7 & 8 Geo. 4, c. 29, s. 28, for setting Snares to take Deer.*

Kent, }
to wit. } Be it remembered, that on &c., at — in the county of —, C. D. is convicted before me, J. P., esquire, one of her Majesty's justices of the

peace for the county aforesaid, for that he the said C. D. on &c., at the parish of &c., in certain inclosed land where deer are usually kept, there situate, unlawfully and wilfully did set and use a certain snare and engine for the purpose of taking and killing deer, against the form of the statute in that case made and provided : Wherefore I, the said J. P., do adjudge the said C. D., for his said offence, to forfeit and pay the sum of 20*l.*, and also to pay the sum of — shillings for costs, and in default of immediate payment &c. [*as in form No. 5, to the end.*]

9. *Conviction under the same section for pulling down Park Fences, &c.*

Kent, } Be it remembered, that on &c., at &c., C. D., late of &c., is convicted before
to wit. } me, J. P., esquire, one of her Majesty's justices of the peace for the county
aforesaid, for that he the said C. D., on &c., at the parish of &c., unlawfully and wilfully did pull down and destroy a certain part, to wit, twelve feet of the fence of certain land of A. B. being there situate, wherein deer were then kept, against the form of the statute in that case made and provided : Wherefore I, the said justice, do adjudge the said C. D., for his said offence, to forfeit and pay &c. [*as in form No. 5, to the end.*]

10. *Commitment on 7 & 8 Geo. 4, c. 29, s. 29, for assaulting a Deerkeeper.*

Kent, } To the constable &c. [*as in form No. 1.*] for that the said C. D. on
to wit. } &c., at &c., having entered into certain inclosed land there situate, where deer are usually kept, with intent unlawfully to kill some or one of the deer therein, did then and there assault, beat, and wound, A. B. of &c., yeoman, he the said A. B. being then and there lawfully entrusted with the care of the said deer, and then and there in the due execution of the powers given to him in that behalf by the statute in such case made and provided : And you the said keeper &c. [*as in form No. 1, to the end.*]

—◆—
Depositions—See Examinations.

—◆—
Destruction of Property—See Mischief, Riot.

—◆—
Dice—See Cards and Dice.

—◆—
Disorderly House.

HOUSES for public Dancing, Music, &c.]—By 25 Geo. 2, c. 36, s. 2, (made perpetual by 28 Geo. 2, c. 19, s. 1) any house, room, garden, or other place, kept for public dancing, music, or other public entertainment of the like kind, in the cities of London and Westminster, or within twenty miles thereof, without a licence from the last preceding Michaelmas quarter sessions under the hands and

seals of four of the justices, shall be deemed a *disorderly house or place*. Any constable, or other person, authorized by warrant under the hand and seal of a justice of the peace, may enter such house or place, and seize every person who shall be found therein, to be dealt with according to law.

For the duty of justices and constables, as to the prosecution of keepers of disorderly houses, see *Bawdy House*.

Houses for public Entertainment on a Sunday.—By 21 Geo. 3, c. 49, s. 1, any house, room, or other place, opened or used for *public entertainment or amusement, or for publicly debating on any subject whatsoever*, upou a *Sunday*, and to which persons shall be admitted for payment of money, or by tickets sold for money, is also to be deemed a *disorderly house or place*; and the keeper and other persons concerned are liable to heavy penalties (recoverable only by action), besides the punishment by law inflicted for keeping a disorderly house.

Debating Societies.—By 39 Geo. 3, c. 79, s. 15, every house, room, field, or other place, at which any lecture or discourse shall be publicly delivered, or any public debate shall be had, on any subject whatever, for the purpose of raising or collecting money, or any other valuable thing, from the persons admitted;—or to which any person shall be admitted by payment of money, or by any ticket or token of any kind delivered in consideration of money, or other valuable thing, or in consequence of paying or giving, or having paid or given, or having agreed to pay or give, in any manner, any money, &c.;—or where any money, &c. shall be received from any person admitted, under pretence of paying for refreshment, or under any other pretence, or for any other cause, or by means of any device or contrivance whatever; and every house, &c. which shall be opened or used as a place of meeting for the purpose of reading books, pamphlets, newspapers, or other publications, and to which any person shall be admitted by payment of money, or by any ticket or token, &c., shall be deemed a *disorderly house*, unless the same shall have been previously licensed in the manner directed by the act. The person by whom it shall be owned or used is liable to a penalty of 100*l.*, besides being otherwise punished as the law directs in the case of a disorderly house. And every person managing or conducting the proceedings, or acting as moderator, president, or chairman, and also every person who shall pay, give, collect, or re-

ceive, or agree to pay, &c. any money, or any thing, for or in respect of the admission of any person into any such house, &c., or shall deliver out, distribute, or receive any such ticket or token, knowing such house, &c. to be opened or used for any such purpose as aforesaid, shall, for every such offence, forfeit 20*l*.

Power of Justices.]—By *sect. 17*, any justice who shall, by information upon oath, have reason to suspect that any house, &c. is opened or used for such purposes, may demand admittance; and in case of refusal, such house, &c. is to be deemed a *disorderly house or place*, and every person refusing admittance shall forfeit 20*l*.

By *sect. 18*, two justices at the general sessions of the peace, or at any special session to be held for the particular purpose, may grant a licence to any house, &c. for any of the purposes before mentioned.

But by *sect. 19*, any justice may go to such house, &c. so licensed, at the time of delivering any lecture or discourse, or at the time appointed for that purpose, or whilst such house, &c. shall be opened or used, or during the time appointed for using the same, as a place for reading books, &c., and demand to be admitted therein; and in case of refusal, the same shall be deemed a *disorderly house or place*, notwithstanding such licence; and every person so refusing shall forfeit 20*l*.

By *sect. 20*, any two justices, upon evidence on oath that any house, &c. so licensed is commonly used for the purpose of delivering there lectures or discourses of a seditious or immoral tendency, or that books or other publications of a seditious or immoral nature are there commonly kept and delivered to be read, may adjudge the licence to be forfeited.

Limitation of Prosecutions.]—By *sect. 34*, prosecutions must be commenced within three calendar months after any penalty incurred.

Recovery and application of Penalties.]—By *sect. 35*, any penalty exceeding 20*l*. must be sued for in the courts above. But any penalty not exceeding 20*l*. may be recovered before any justice of the peace in a summary way by distress; in default of which the offender may be committed to the common gaol or house of correction for not more than six, nor less than three, calendar months. By *sect. 36* one half the penalty goes to the informer, and the other half to the King.

By *sect. 37*, there is the usual limitation and restrictions as to actions against justices, or other persons, for any thing done in pursuance of the act. And by *sect. 39*, a general form of conviction is given.

1. *Recognizance of the Constable or Overseers to prosecute the Keeper of a Disorderly House, under 25 Geo. 2, c. 36, s. 5 (s).*

Kent, } Be it remembered, that on &c., at — in the said county, A. B., one
to wit. } of the constables of the parish of — in the county aforesaid [or
“E. F. and G. H., overseers of the poor of the said parish,”] personally came before
me, J. P., esquire, one of her Majesty’s justices of the peace in and for the said
county, and acknowledged himself [or “themselves”] to be indebted to our Sovereign
Lady the Queen in the penal sum of — pounds.

Whereas K. L. and M. N., two of the inhabitants of the said parish, have given notice in writing to the above-bounden A. B., constable of the said parish [or “E. F. and G. H., overseers of the said parish,”] that W. B., of the parish aforesaid in the county aforesaid, doth keep a disorderly house in — street in the parish aforesaid, and have severally made affidavit of their belief in the truth of the contents of the said notice, and have also severally entered into a recognizance in the penal sum of £ — each, before me the said justice, on condition that they shall give or produce material evidence against the said W. B. for the said offence. Now the condition of this recognizance is such, that if the above-bounden A. B. [or “E. F. and G. H.”] do and shall prosecute with effect the said W. B. for the said offence, then this recognizance to be void and of no effect, but otherwise to be and remain in full force. Acknowledged before me.
J. P.

2. *Warrant to Apprehend the Keeper of a Disorderly House, under 25 Geo. 2, c. 36, s. 6 (t), and 58 Geo. 3, c. 70, s. 7.*

Kent, }
to wit. } To the constable of the parish of —, in the said county.

Whereas K. L. and M. N., two of the inhabitants of the parish of — in the said county, paying scot and bearing lot within the said parish, have given notice in writing to A. B., constable of the said parish, and also to E. F. and G. H., overseers of the poor of the said parish, that W. B. of the said parish doth keep a disorderly house in the said parish, and have also this day severally made affidavit before me, one of her Majesty’s justices of the peace in and for the said county, that they believe the contents of the said notice to be true; and have also severally entered into a recognizance in the penal sum of £ — each, on condition to give or produce material evidence against the said W. B.; These are therefore to command you forthwith to bring the said W. B. before me on — the — day of — next, at the hour of — in the — noon at —, in order that the said W. B. may be bound over to appear at the next quarter sessions of the peace to be held in and for the said county, there to answer to such bill of indictment as shall be found against him for such offence. Given under my hand and seal, &c.

3. *Allowance by two Justices of the Constable’s expenses in the Prosecution, under 25 Geo. 2, c. 36, s. 5 (u).*

Kent, } Whereas A. B., constable of the parish of — in the said county,
to wit. } hath this day made oath before us J. P. and W. D., esquires, two of her Majesty’s justices of the peace in and for the said county, that he hath truly and bond

(s) See ante *Widow House*, p. 93.

(t) *Ibid.*

(u) *Ibid.*

vide expended the sum of £—— in the prosecution of one W. B. for keeping a disorderly house at —— aforesaid, in pursuance of the condition of the said A. B.'s recognizance. Now we the said justices do hereby ascertain and allow the said A. B. the said sum of £—— as and for the reasonable expenses of the said prosecution; and we do hereby require the overseers of the said parish of —— forthwith to pay the said A. B. the said sum of £——. In witness whereof we have hereunto set our hands, at —— aforesaid in the county aforesaid, this —— day of ——, 1842.

J. P.
W. D.

Dissenters.

PLACES for meeting must be certified.—By 52 Geo. 3, c. 155, s. 2, no congregation or assembly for the religious worship of Protestants, at which there shall be present more than twenty persons, besides the immediate family and servants of the person in whose house or upon whose premises such meeting shall be had, shall be permitted, unless the same be certified to the bishop of the diocese, the archdeacon of the archdeaconry, or to the justices at the general or quarter sessions; upon which the bishop, or registrar, or clerk of the peace, is to give a certificate to such person as shall demand the same. Every person, who shall knowingly permit or suffer any such congregation or assembly to meet in any place occupied by him, until the same shall have been so certified, shall forfeit for every time of meeting, not exceeding 20*l.*, nor less than 20*s.*

Dissenting Ministers.—By *sect. 3*, every person who shall teach or preach in any such congregation or assembly in any place, without the consent of the occupier, is liable to a penalty not exceeding 30*l.*, nor less than 40*s.*

By *sect. 5*, every person, who shall preach or teach at any place of religious worship certified under the act, shall, when required in writing by any justice of the peace, take and make, and subscribe in his presence, the oaths and declarations specified in the 19 Geo. 3, c. 44, namely, the oaths of allegiance and supremacy, and the declaration against popery required by the 1 W. & M. st. 1, c. 18, s. 13, and the declaration of christian belief provided by the 19 Geo. 3, c. 44. No person, who shall refuse to attend the justice, or to take and make and subscribe such oaths and declarations, shall be permitted to teach or preach, on pain of forfeiting, for every time he shall so teach or preach, not exceeding 10*l.*, nor less than 10*s.* But by *sect. 6*, no person shall be required to go more than five miles from his house to take the oath.

By *sect. 7*, any of his Majesty's Protestant subjects may require a justice to administer such oaths to him.

By *sect. 8*, every justice, before whom any person shall take the oaths, is to give him a certificate of his having done so, for which, if the oaths are taken at the requisition of the party himself, the justice is entitled to a fee of 2s. 6d.

Penalty for fastening Doors.—By *sect. 11*, no meeting, assembly, or congregation shall be had in any place with the door locked, bolted, or barred, or otherwise fastened, so as to prevent any persons entering therein, under a penalty of not more than 20*l.*, nor less than 40*s.*, imposed on the person teaching or preaching at such meeting.

Disturbing Congregations.—By *sect. 12*, if any person shall wilfully and maliciously, or contemptuously, disquiet or disturb any meeting, assembly, or congregation of persons assembled for religious worship authorized by act of parliament, or shall in any way disturb, molest, or misuse any preacher, teacher, or person officiating at such meeting, or any persons there assembled, the offender, upon proof thereof before any justice by two witnesses, shall find two sureties, to be bound by recognizance in 50*l.*, to answer for the offence; in default of which he is to be committed to prison until the next general or quarter sessions, where, upon conviction, he is liable to a penalty of 40*l.*

Quakers.—By *sect. 14*, this act is not to extend to Quakers.

Recovery and Application of Penalties.—By *sect. 15*, persons may be convicted, upon the oath of *one witness*, before *two justices*, who may levy the penalties by *distress*, one half of which is to go to the informer, and the other half to the poor of the parish. In default of distress, the justices may commit the offender for not more than three months.

By *sect. 16*, an *appeal* is given to the next quarter sessions. By *sect. 17*, prosecutions must be commenced within six months after the offence. And by *sect. 18*, there is the usual limitation as to actions.

1. *Certificate (x) of having taken the Oaths before a Justice, pursuant to*
52 Geo. 3, c. 155.

County of } I, J. P., esquire, one of her Majesty's justices of the peace for the said
Essex. } county of Essex, do hereby certify, that C. D., of —, in the county of
—, did this day appear before me, and did make, and take, and subscribe the several oaths and declarations contained and specified in an act made in the fifty-second

year of the reign of King George the Third, intituled, "An Act to repeal certain Acts, and amend other Acts relating to Religious Worship and Assemblies, and persons teaching or preaching therein." Witness my hand, this — day of —, in the year of our Lord 1842. J. P.

2. *Conviction under 52 Geo. 3, c. 155, s. 2, for holding a Meeting in an unregistered House (y).*

Kent,) Be it remembered, that on the — day of —, in the year of our Lord
to wit,) 1842, at —, in the county of Kent, A. B., of —, in the county afore-
said, gentleman, personally came before me, J. P. esq., one of her Majesty's justices
of the peace for the said county, and informed me, the said justice, that one C. D., of
— aforesaid, being the occupier of a certain dwelling-house, situate in — afore-
said, did, on the — day of — now last past, at the parish of — aforesaid, know-
ingly permit and suffer a congregation and assembly of divers persons, for the religious
worship of Protestants, to meet and assemble in his said dwelling-house, at which con-
gregation and assembly there were present more than twenty persons, to wit, forty per-
sons, besides the immediate family and servants of the said C. D.; the said dwelling-
house in which the said meeting was had not being duly certified and registered under
any act or acts of parliament relating to registering places of religious worship, nor cer-
tified to the bishop of the diocese, or to the archdeacon of the archdeaconry, or to the
justices of the peace at the general or quarter sessions of the peace for the county afore-
said, against the form of the statute in such case made and provided, whereby the said
C. D. hath forfeited the sum of 20l.: Whereupon the said C. D., being duly summoned
to answer the said charge, appeared before us, the said J. P., and W. O. esquire, ano-
ther of her Majesty's justices of the peace for the county aforesaid, and, having heard
the charge contained in the said information, declared he was not guilty of the said
offence: Whereupon we, the said justices, did proceed to examine into the truth of the
charge contained in the said information, and now, on this day, at —, in the county
aforesaid, one credible witness, to wit, E. F., of —, in the county aforesaid, upon his
oath deposeth and saith, in the presence of the said C. D., that within six months next
before the said information was made before me the said J. P. by the said A. B., to
wit, on the said — day of — last, he the said E. F. attended a meeting of persons
who were assembled at the said dwelling-house of the said C. D., at — aforesaid
for religious worship; and that he believes there were present at least fifty persons,
besides the immediate family and servants of the said C. D.; and that the persons so
assembled were Protestant Dissenters: And one other credible witness, to wit, G. H.,
of —, in the county aforesaid, upon his oath deposeth and saith, in the presence of
the said C. D., that he the said G. H. was, on the said — day of — last, also pre-
sent at a numerous meeting of persons assembled for religious worship at the said
dwelling-house of the said C. D.; that he did not count them, but he believes there
were more than fifty persons present, and that the words "Baptist Chapel" were
painted over one of the windows of the said dwelling-house; and that the said C. D.
was himself preaching at the said meeting: And also a witness produced and examined
on the part of the said C. D., to wit, I. K., of — aforesaid, upon his oath deposeth
and saith, that he should not think there were as many as fifty persons present at the
said meeting; that they were very peaceable, and made no disturbance, and that the

said C. D. was praying at the said meeting, and not preaching therein, as one of the witnesses has deposed: Whereupon, it manifestly appearing to us, the said justices, that the said C. D. is guilty of the offence charged upon him in the said information, we, the said justices, do hereby convict him of the offence aforesaid, and do declare and adjudge that he the said C. D. hath forfeited the sum of 20*l.* of lawful money of Great Britain, for the offence aforesaid, to be distributed according to the form of the statute in such case made and provided. Given under our hands and seals, this — day of —, in the year of our Lord 1842.

3. *Warrant to apprehend a Party for disturbing a Congregation of Dissenters during Divine Service, under 52 Geo. 3, c. 155, s. 12 (z).*

Essex, } To the constable of the parish of —, in the said county, and all other
to wit. } peace officers in the said county.

Forasmuch as C. D., of —, in the county aforesaid, —, hath this day been charged before me, J. P., esquire, one of her Majesty's justices of the peace for the county aforesaid, on the oath of two credible witnesses, for that he the said C. D., on the — day of — instant, at the parish of — aforesaid, wilfully, maliciously, and contemptuously disquieted and disturbed a certain congregation of persons lawfully assembled for religious worship, against the peace of our Lady the Queen, and contrary to the form of the statute in such case made and provided: These are therefore to command you, in her Majesty's name, forthwith to apprehend and bring before me the body of the said C. D., to answer to the said charge, and to be further dealt with according to law. Given under my hand and seal, this — day of —, in the year of our Lord 1842.

4. *Commitment under the same Section, for not finding Sureties to appear at the Sessions (a).*

Essex, } To the constable of —, in the said county, and to the keeper of the
to wit. } common gaol in the same county.

Whereas A. B., of —, in the county aforesaid, —, and W. Y., of —, severally came before me, J. P., esquire, one of her Majesty's justices of the peace for the said county, on the — day of — instant, at —, in the said county, and made complaint before me, on oath, that C. D., of &c. [*recite the charge as in the warrant*]: And whereas the said C. D. was this day brought before me, the said justice, to answer the said complaint, and the said A. B. and W. Y., two credible witnesses in this behalf, have also this day appeared before me, and have been examined as to the truth of the said charge in the presence of the said C. D.; and I, the said justice, after hearing what the said C. D. had to say in his defence, being satisfied that the said charge was duly proved against the said C. D. by the said two credible witnesses, have ordered and adjudged, and do hereby order and adjudge, that the said C. D. shall find two sureties to be bound by recognizances in the penal sum of 50*l.*, to answer for his said offence: But inasmuch as the said C. D. hath refused and neglected, and still refuses and neglects, to find such sureties, I do hereby require and command you, the said constable, forthwith to convey the said C. D. to the common gaol of the said county, and to deliver him to the keeper thereof, together with this warrant: And I do also require and com-

(r) See *ante*, p. 230.

(a) *Ibid.*

mand you, the said keeper, to receive the said C. D. into your custody in the said gaol, and him there safely keep till the next quarter sessions of the peace to be held for the said county, unless he in the mean time shall find sufficient sureties to answer for the offence aforesaid. Given under my hand and seal, this — day of —, in the year of our Lord 1842.

Distress.

AS to the jurisdiction of magistrates over the offence of *removal of goods by a tenant to avoid a distress*, and that of *extortion in distraining for small rents*, see post, **Landlord and Tenant**.

Under a Magistrate's Warrant.]—The power of magistrates to issue a warrant of distress, in case of the non-payment of a penalty, is derived entirely from special statutory provisions, and is not any necessary consequence of a conviction. If a statute therefore confers only a power to convict, without making provision for the recovery of the penalty, there seem to be no compulsory means of carrying such a law into effect. In the 7 & 8 Geo. 4, c. 29, s. 67, and some other subsequent statutes, it has been thought to be attended with less injurious effects to an offender's family, to give no power of distress, but to enable the magistrate to commit the offender to prison immediately, on non-payment of the penalty. And a very salutary provision on this subject is contained in the 5 Geo. 4, c. 18, s. 4, which applies to all cases of summary conviction, namely; that whenever the recovery of a penalty by distress may appear to the convicting magistrate to be ruinous or injurious to the offender and his family, the justice is empowered to commit him (with the consent in writing, however, of the party convicted) immediately after conviction, in default of payment of the penalty and costs, for such time as is specified in the act imposing the penalty, without issuing any warrant of distress. And (by *sect. 1*) whenever it appears to the justice that the party has not, within the justice's jurisdiction, sufficient goods to satisfy the penalty and costs, the justice may, without any warrant of distress, commit him for such period, as if there had been a return of *nulla bona*. If the magistrate is wholly ignorant of the defendant's circumstances, then (by the same section (*b*)) he may order him to be detained in custody, until return is made to a warrant of distress, unless he shall give security for his appearance on the return of the

(*b*) There is great confusion in the statute; but the above appears to be its meaning of the first section of this sta-

warrant, which is not to be more than eight days from the time of taking such security.

Where Distress proves insufficient.—By several statutes a power is given to the magistrate to distrain for a penalty, but no provision is made, if the defendant has not sufficient goods to satisfy the distress. For remedy of this inconvenience, it is provided by *sect. 2* of the above statute, that in all such cases, whenever it shall appear to the justice on the return of the warrant, that no sufficient goods of the offender can be found,—or in case it shall appear to him, either by confession of the party, or otherwise, that there are not sufficient goods within the jurisdiction of the justice whereon to levy the penalty,—the justice may commit the offender to the common gaol for not more than three calendar months, unless the sum adjudged to be paid, and all costs and charges shall be sooner paid; the amount of such costs and expenses being specified in the warrant of commitment.

And by *sect. 3*, whenever the offender, after being thus committed to prison, pays the amount of the penalty and costs, the keeper of the prison may discharge him from custody.

Sale of Distress.—By 27 Geo. 2, c. 20, s. 1, where a justice is empowered by any statute to issue a warrant of distress for levying a penalty, or any other sum directed to be paid by a statute, he may order the goods distrained to be sold within a certain time limited by the warrant, being not less than four days, nor more than eight days, unless the penalty, with the costs, be sooner paid. And by *sect. 2*, the officer may deduct the reasonable charges of the distress out of the money arising by the sale. If required, he must show the warrant to the person whose goods are distrained, and suffer a copy to be taken.

But by *sect. 3*, this is not to extend to alter any provisions relating to distresses for tithes and church-rates on Quakers, contained in the 7 & 8 Will. 3, c. 34, and 1 Geo. 1, st. 2, c. 6.

Backing Warrant.—By 33 Geo. 3, c. 55, s. 3, where a sufficient distress cannot be found within the jurisdiction of the justice granting the warrant, then, on oath made of the fact by one witness before a justice of any other county, to be certified by indorsement on the warrant, the penalty, or the deficiency, may be levied in such other county. But the justice, so backing the warrant, is not answerable for any irregularity in obtaining or granting the warrant.

1. *Form of a Warrant of Distress for a Penalty, and for the Charges of Distress.*

Essex, } To the constable of — in the said county, and to all other constables
to wit. } in and for the said county.

Whereas C. D., late of — in the said county, labourer, was on this day duly convicted before me J. P., esquire, one of her Majesty's justices of the peace for the said county, for that he the said C. D., &c. [*state the offence as in the conviction*], against the form of the statute in that case made and provided; and I the said J. P., thereupon adjudged the said C. D. for his said offence [*here set out the adjudication as in the conviction*]; and whereas the said C. D., being so convicted as aforesaid, and being required to pay the said sums, hath not paid the same, or any part thereof, but therein hath made default: These are therefore to command you forthwith to make distress of the goods and chattels of the said C. D.; and if within the space of — (c) days next after the making of such distress, the said sums, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and out of the money arising by such sale, that you do pay one moiety of the said sum of £ — so forfeited as aforesaid, together with the said sum of — for costs, unto A. B., who hath informed me of the said offence; and the said other moiety of the said sum of £ —, so forfeited as aforesaid, unto the use of her Majesty [*or "unto the overseers of the poor of the said parish of —, where the said offence was committed, for the use of the poor of the said parish," or according to the provisions of the statute imposing the penalty,*] rendering the overplus on demand unto the said C. D., the reasonable charges of taking, keeping, and selling the said distress being first deducted: And if no such distress can be made, that then you certify the same unto me, to the end that such further proceedings may be had therein as to the law doth appertain. Given under my hand and seal, this — day of, &c.

J. P.

2. *Constable's Return of Nulla Bona.*

Essex, } I, G. H., constable of —, in the county aforesaid, do hereby certify to
to wit. } J. P., esquire, one of her Majesty's justices of the peace for the said county, that by virtue of this warrant I have made diligent search for the goods and chattels of the within-mentioned C. D., and that I can find no sufficient goods or chattels of the said C. D., whereon to levy the sums within mentioned. Witness my hand the — day of, &c.

3. *Commitment for want of Distress.*

Essex, } To the constable of —, in the said county, and to the keeper of the
to wit. } common gaol at —, in the said county.

Whereas C. D., late of —, in the said county, labourer, was, on the — day of — last past, duly convicted before me, J. P., esquire, one of her Majesty's justices of the peace for the said county, for that he the said C. D. [*state the offence as in the conviction*], against the form of the statute in that case made and provided; and I, the said J. P., thereupon adjudged the said C. D., for his said offence, to [*here set out the adjudication as in the conviction*]; and whereas afterwards, on the — day of —

in the year aforesaid, I, the said J. P., issued a warrant to the constable of —, commanding him to levy the said sums by distress and sale of the goods and chattels of the said C. D.; and whereas it appears to me, as well by the return of the said constable to the said warrant of distress, as otherwise, that the said constable hath made diligent search for the goods and chattels of the said C. D., but that no sufficient distress can be found whereon to levy the same: These are therefore to command you, the said constable of — aforesaid, to take the said C. D. and him safely to convey to the common gaol at — aforesaid, and there to deliver him to the said keeper thereof, together with this precept: And I do hereby command you the said keeper of the said common gaol, to receive the said C. D. into your custody, and to imprison him in the said common gaol for the space of — [*not exceeding three calendar months*], unless the said sums shall be sooner paid; and for your so doing this shall be your sufficient warrant. Given under my hand and seal, at — in the county aforesaid, this — day of, &c., in the year of our Lord 1842.

Disturbance of Public Worship—See **Church, Dissenters**.

Docks.

BY 7 & 8 Geo. 4, c. 29, s. 17, if any one shall steal any goods or merchandize from any dock, wharf, or quay, adjacent to any port of entry or discharge, or any navigable river, or canal, or to any creek belonging to, or communicating with, any such port, river, or canal, the punishment is (by 7 Will. 4 & 1 Vict. c. 90, s. 2.) *Transportation not exceeding fifteen years, nor less than ten years; or imprisonment not exceeding three years, with or without hard labour and solitary confinement.*

For offences committed in docks within the metropolitan police district, see *post*, **Metropolitan Police**.

Dock-yards—Firing the Royal Dock-yards, see **Arson**.

Dogs.

STEALING them.—By 7 & 8 Geo. 4, c. 29, s. 31, if any person shall steal any dog, or any beast, or bird, ordinarily kept in a state of confinement, and not the subject of larceny at common law, the offender, on conviction before a justice of the peace, for the *first* offence, is liable to a penalty, not exceeding 20*l.*, over and above the value of the animal; and for a *second* offence, he is liable to be committed to hard labour for any term not exceeding twelve calendar

months; and if the *second* conviction takes place before *two justices*, the offender (if a male) may be once, twice, or thrice publicly or privately whipped, after four days from the conviction.

Having stolen ones in Possession.—By *sect. 32*, if any dog, or any such beast, or the skin thereof, or any such bird, or any of the plumage thereof, shall be found in the possession, or on the premises, of any person, by virtue of a search warrant (grantable under *sect. 63 (d)*), the justice may restore the same to the owner; and the party in whose possession the same shall be found, if he knows that the animal has been stolen, or that the skin or plumage belongs to a stolen animal, is liable, on conviction before a justice, for the *first* offence to the same forfeiture, and for every *subsequent* offence to the same punishment, as persons convicted of stealing any animal are before made liable to.

Appeal.—By *sect. 72*, an appeal from the conviction is only given, where the sum ordered to be paid exceeds *5l.*, or the imprisonment exceeds one calendar month, or the conviction is before *one justice* only; and the party must give to the complainant notice in writing of the appeal, and of the cause and matter thereof, within three days after the conviction, and seven clear days at the least before the sessions, and must either remain in custody until the sessions, or enter into a recognizance with two sureties conditioned to try the appeal, and to pay such costs as shall be awarded.

As to the limitation of time for prosecutions and actions, and the summary proceedings before the magistrate, see *ante*, title *Beer*.

Keeping ferocious Dogs.—By *2 & 3 Vict. c. 47, s. 54*, every person who shall, within the limits of the metropolitan police district, suffer to be at large in any thoroughfare or public place, any ferocious dog, or shall set on or urge any dog or other animal to attack, worry, or put in fear any person, horse, or other animal, is liable to a penalty not exceeding *40s.* And any constable belonging to the metropolitan police force may take into custody, without warrant, any person committing such offence within his view.

Using Dogs for drawing.—By *sect. 56*, every person, who, within the above district, shall use any dog for the purpose of drawing, or helping to draw, any cart, carriage, truck, or barrow, is liable to a penalty not exceeding *40s.* for the first offence, and not more than *5l.* for any subsequent offence.

(d) See *ante*, title *Beer*, p. 220.

Mad Dogs.—By *sect. 61*, any constable of the metropolitan police force may destroy any dog, or other animal, reasonably suspected to be in a rabid state, or which has been bitten by any dog or animal reasonably suspected to be in that state. And the owner of the dog who permits it to go at large, after having information or reasonable ground for believing it to be in a rabid state, or to have been bitten by any dog or other animal in that state, forfeits not exceeding 5*l*.

1. *Information to ground a Search Warrant for a Stolen Dog, under 7 & 8 Geo. 4, c. 29, s. 63 (e).*

Kent, } Be it remembered, that on this — day of —, in the year of our Lord
to wit. } 1842, at — in the said county of Kent, A. B., of &c., yeoman, in his
proper person, cometh before me, J. P., esquire, one of her Majesty's justices of the
peace in and for the said county, and upon his oath before me, the said justice, deposeth
and saith, that he has lately lost a spaniel dog of a black and white colour, and that he
hath cause to suspect, and doth suspect, that C. D. of — aforesaid, did steal the same,
and that the said dog is now concealed in some part of the dwelling-house and premises
occupied by the said C. D., at —, in the parish of —, in the said county.

A. B.

Exhibited before me upon oath, this — day of —, A. D. 1842.

J. P.

2. *Search Warrant thereon.*

Kent, }
to wit. } To the constable of — in the said county.

Whereas it appears to me, J. P., esquire, one of her Majesty's justices of the peace in and for the said county of Kent, by the information on oath of A. B., that he hath probable cause to suspect, and doth suspect, that C. D., of &c., hath stolen a spaniel dog, of a black and white colour, of him the said A. B., and that the said dog is now concealed in some part of the dwelling house and premises of the said C. D. at —, in the parish of —, in the county aforesaid: These are therefore to command you, in her Majesty's name, with necessary and proper assistants, to enter in the daytime into the said dwelling-house and premises of the said C. D., and there diligently to search for the said dog, and if you shall find it therein, that then you bring the same before me at this place, and also the body of the said C. D., at —, to-morrow morning at — o'clock, to be disposed of and dealt with according to law. Given, &c.

3. *Conviction (f) for stealing a Dog under 7 & 8 Geo. 4, c. 29, s. 31.*

Kent, } Be it remembered, that on the — day of —, in the year of our Lord
to wit. } 1842, at —, in the county of Kent, C. D. is convicted before me, J. P.,
esq., one of her Majesty's justices of the peace in and for the said county, for that he the

(e) See *ante*, title *Dogs*, p. 220.

(f) This form is given by the 71st section of the statute.

said C. D., on &c., at &c., one dog (g) of the value of 10s., the property of A. B., unlawfully did steal, take and carry away, against the form of the statute in that case made and provided: Whereupon I, the said J. P., do adjudge the said C. D., for his said offence, to forfeit and pay the sum of 20l. over and above the value of the said dog so stolen as aforesaid, and the further sum of 10s., being the value of the said dog, and also to pay the sum of — shillings for costs; and in default of immediate payment of the said sums, to be imprisoned in the house of correction at — in the said county, and there kept to hard labour for the space of — (h), unless the said sums shall be sooner paid: And I direct that the said sum of 20l. shall be paid to E. F., of — aforesaid, one of the overseers of the poor of the parish of — aforesaid, in which the said offence was committed, to be by him applied according to the direction of the statute in such case made and provided; and that the said sum of 10s. (i) shall be paid to the said A. B. And I order that the sum of — for costs shall be paid to the said A. B. Given under my hand and seal the day and year first above mentioned.

4. Conviction for a subsequent Offence.

[Same as the last precedent to the words "against the form of the statute in that case made and provided:"] And it is now proved before me, the said J. P., that the said C. D. heretofore, and before the commission of the said offence, on &c., at &c., was duly convicted before W. O., esquire, one other of her Majesty's justices of the peace for the said county, for that he the said C. D., on &c., at &c., one other dog of the value of 20s., the property of one G. H., unlawfully did steal, take and carry away, against the form of the statute in that case made and provided: Wherefore I, the said J. P., do adjudge the said C. D., for such his said second offence, of which he is now convicted, to be imprisoned in the house of correction at — in the said county, and there to be kept to hard labour for the space of twelve calendar months* Given under my hand and seal the day and year first above mentioned.

* If *whipping* forms a part of the adjudication, the conviction must be by *two* justices. In that case, add, "and also that the said C. D. after the expiration of four days from the date hereof, and before the expiration of the said term of imprisonment, shall be once privately whipped. Given under our hands and seals the day and year first above mentioned."

J. P.

L. S.

5. Conviction for having a stolen Dog in Possession, on 7 & 8 Geo. 4, c. 29, s. 32.

Kent, } Be it remembered, [as in form No. 3.] for that on &c., at &c., a certain
to wit. } dog, the property of A. B., by a certain ill-disposed person unknown, then

(g) For stealing any other beast or bird, the conviction should allege that the animal was "ordinarily kept in a state of confinement, and was not the subject of larceny by the common law."

(h) Not exceeding two calendar months, where the penalty and costs shall not exceed 5l.; not exceeding four calendar months, where they shall not exceed 10l.; and not exceeding six calendar months in

any other case." See *sect. 67, ante*, title *Dogs*, p. 221.

(i) If the owner of the dog has been examined in proof of the offence, or if he is unknown, then say, "shall also be paid to the said E. F., A. B., the owner of the said dog, having been examined in proof of the offence charged," or "to the said E. F., the owner of the said dog being unknown, to be by him applied in manner aforesaid."

lately before unlawfully stolen and carried away, was found in the dwelling-house and premises of the said C. D. at — aforesaid, by virtue of a certain search warrant theretofore in that behalf duly granted by me the said justice, he the said C. D., then and there well knowing the said dog to have been unlawfully stolen, against the form of the statute in that case made and provided: Wherefore I, the said J. P., do adjudge the said C. D., for his said offence, to forfeit and pay, &c. [*conclude as in the form No. 3.*]

6. Conviction for a subsequent Offence.

[*Same as form No. 3, to the words, "against the form of the statute in that case made and provided:"*] And it is now proved before me, the said J. P., that the said C. D. was, on &c., at &c. duly convicted before G. P., esq., one other of her Majesty's justices of the peace for the said county, for that, on &c., at &c., a certain other dog, the property of one M. R., by a certain ill-disposed person unknown then lately before unlawfully stolen, was also found in the possession of the said C. D., by virtue of a certain other search warrant in that behalf duly granted, he the said C. D. then and there well knowing the said last-mentioned dog to have been unlawfully stolen, against the form of the statute in that case made and provided: Wherefore I, the said J. P., do adjudge the said C. D., for such his said second offence, of which he is now convicted, to be imprisoned, &c. [*conclude as in the form No. 4.*]

Dog-fighting—See Bull-baiting.

Door-bells.

BY 2 & 3 Vict. c. 47, s. 54, every person who, within the limits of the metropolitan police district, shall in any thoroughfare or public place wilfully and wantonly disturb any inhabitant, by pulling or ringing any door-bell, or knocking at any door, without lawful excuse, is liable to a penalty not more than 40s. And any constable belonging to the metropolitan police force may take in custody, without warrant, any person who shall commit such an offence within his view.

Drinking Furiously—See Furious Driving.

Drovers.

BY 2 & 3 Vict. c. 47, s. 54, which seems to supersede the provision of the 21 Geo. 3, c. 67, every person who, within the limits of the metropolitan police district, shall, by negligence or ill usage in driving cattle in any thoroughfare or public place, cause any mischief

to be done by such cattle, or who shall in anywise misbehave himself in the driving, care, or management of such cattle, and also every person not being hired or employed to drive such cattle, who shall wantonly and unlawfully pelt, drive, or hurt any such cattle, shall be liable to a penalty not exceeding 40s. And any constable belonging to the metropolitan police force may take into custody, without warrant, any person who shall commit any such offence within his view.

The only material difference between the above provision and that contained in the 21 Geo. 3, c. 67, s. 1, is, a power given to the constable to seize and secure the offender, upon information given to him of the offence by any person who shall declare his name and place of abode.

Drunkenness.

BY 21 Jac. 1, c. 7, s. 2, incorporating the 4 Jac. 1, c. 5, s. 2, any justice, upon his own view, confession of the party, or proof of one witness, may convict any person of the offence of drunkenness in the penalty of 5s., to be paid within one week after conviction to the churchwardens of the parish where the offence is committed, for the use of the poor. In default of payment, distress; and if the offender is unable to pay the 5s., he is to be committed to the stocks for the space of six hours. And (by *sect. 3*) for a second offence he may be bound over, with two sureties in 10*l.*, for his good behaviour.

By 2 & 3 Vict. c. 54, s. 58, every person who shall be found drunk in any street or public thoroughfare within the metropolitan police district, and who while drunk shall be guilty of any riotous or indecent behaviour, is liable to a penalty of not more than 40s. for every offence, or may be committed, if the magistrate shall think fit, instead of inflicting on him any pecuniary penalty, to the house of correction for not more than seven days.

1. Conviction for Drunkenness on Justice's own view.

County of } Be it remembered, that on the — day of —, in the year of our
 Kent. } Lord 1842, at the parish of —, in the county of —, I, J. P., esquire, one of the justices of the peace of our Lady the Queen in and for the said county, personally saw one A. B. of the parish of — aforesaid, labourer, drunk, contrary to the form of the statute in that case made and provided: Whereupon it is considered and adjudged by me the said justice, that the said A. B. be convicted, and he is by me accordingly hereby convicted, of the offence of being drunk, upon my own view as aforesaid, according to the form of the statute in that case made and provided: And I do hereby adjudge that the said A. B., for the said offence, hath forfeited the sum of 5s.,

to be paid and distributed as the law directs. In witness whereof I the said justice to this present conviction have set my hand and seal the day and year above written.

2. *Warrant to Churchwardens (if they are not present at the conviction, or the offender makes default by not appearing) to receive the penalty.*

County of }
Kent. } To the churchwardens of the parish of —, in the said county.

Forasmuch as A. B. of —, in the county aforesaid, labourer, is convicted before me, J. P., esquire, one of her Majesty's justices of the peace for the said county, for that he the said A. B., on the — day of —, in the year —, at the parish of —, in the said county of —, was drunk, contrary to the statute in such case made and provided; whereby he hath forfeited the sum of 5s., to the use of the poor of the said parish: These are therefore to require you to demand and receive of and from him the said A. B. the said sum of 5s., to be by you accounted for to the use aforesaid: And if he shall refuse or neglect to pay the same by the space of one week after such demand made, that then you certify to me such refusal or neglect, to the end that such proceeding may be had thereupon as to justice doth appertain. Given under my hand and seal, the — day of —, in the year of our Lord 1842.

3. *Warrant to levy the penalty.*

County of }
Kent. } To the constable of —, in the said county.

Whereas A. B. of —, in the parish of —, in the county aforesaid, labourer, was, on the — day of —, convicted before me, J. P., esquire, one of her Majesty's justices of the peace for the said county, for that he the said A. B. was drunk on the — day of —, at — aforesaid, in the parish and county aforesaid, by which he hath forfeited the sum of 5s.: And whereas I the said justice did issue my warrant on the — day of — to the churchwardens of the parish of — aforesaid, to demand and receive the said sum of 5s. of and from the said A. B.: And it now duly appears to me, as well on the oath of C. W. churchwarden of the parish of — aforesaid, as otherwise, that they the said churchwardens did, on the — day of —, demand the said sum of 5s. of and from the said A. B., but that he the said A. O. hath neglected to pay the same as aforesaid, and that the same is not yet paid: These are therefore to command you forthwith to levy the said sum by distraining the goods of him the said A. B.: And if within the space of six days next after such distress by you taken, the said sum, together with reasonable charges for taking and keeping the said distress, shall not be paid, that then you do sell the said goods so by you distrained as aforesaid, and out of the money arising by such sale that you do pay the said sum of 5s. to the churchwardens of the said parish for the use of the poor of the said parish, rendering to him the said A. B. the overplus upon demand, the necessary charges of taking, keeping, and selling the said distress being first deducted: And if the said A. B. be not able to pay the said sum of 5s., and sufficient distress cannot be found whereupon to levy the said sum, that you certify the same to me, together with the return of this warrant. Given under my hand and seal, this — day of —, 1842.

4. *Certificate by Constable of want of Distress.*

County of } A. C., constable of —, in the said county, maketh oath this — day
 Kent. } of —, in the year —, before me, the justice within mentioned, that he
 hath made diligent search for, but doth not know of, nor can find, any goods of the
 within mentioned A. O., whereton to levy the within sum of 5s.

Sworn before me the said justice, J. P.

A. C. A

5. *Commitment to the Stocks, on inability to pay the penalty.*

County of } To the constable of —, in the said county.
 Kent. }

Whereas A. B., of — in the said county, labourer, was, on the — day of —, convicted before me, J. P., esquire, one of her Majesty's justices of the peace for the said county, for that he the said A. O. was, on the — day of —, at the parish of — in the said county, drunk, whereby he hath forfeited the sum of 5s.: And whereas it duly appears to me that the said A. B. is not able to pay the said sum of 5s.: These are therefore to require you, in her Majesty's name, to set him the said A. B. in the stocks, there to remain for the space of six hours. Given under my hand and seal, the — day of —, 1842.

Duelling—See **Challenge to Fight**.

Dwelling-house—Stealing in, see **Burglary**, **Housebreaking**, **Larceny**; setting fire to, see **Arson**; riotously demolishing, see **Riot**.

Embezzlement.

BY public officers.—By 2 & 3 Will. 4, c. 4, s. 1, if any person employed in the public service of his Majesty, and entrusted by virtue of such employment with the receipt, custody, management, or control of any *chattel, money, or valuable security*, shall *embezzle* the same, or any part thereof, or in any manner fraudulently apply or dispose of the same, or any part thereof, to his own use or benefit, or for any purpose whatsoever, except for the public service, he shall be deemed to have stolen the same, and shall be guilty of *Felony*, punishable with *Transportation not exceeding fourteen, nor less than seven, years*; or *Imprisonment, with or without hard labour, not exceeding three years*.

What shall be deemed valuable securities.—By sect. 2, every tally,

order, or other security whatsoever, entitling or evidencing the title of any person, or body corporate, to any share or interest in any public stock or fund, or in any fund of any body corporate, company, or society, or to any deposit in any savings' bank, and every debenture, deed, bond, bill, note, warrant, order, or other security whatsoever, for money, or for payment of money, whether of this kingdom, or of any foreign state, and every warrant or order for the delivery or transfer of any goods or valuable thing, shall be deemed a valuable security.

By servants of Bank of England or South Sea Company.—By 4 & 5 Vict. c. 56, s. 1, the punishment of death, which by various acts was imposed for the *embezzlement* of any note, security, money, or other effects, by any officer or servant of the *Bank of England*, or of the *South Sea Company*, is abolished, and the following punishment substituted, viz. *Transportation for life, or not less than seven years; or Imprisonment not exceeding three years.*

By private persons.—By 7 & 8 Geo. 4, c. 29, s. 49, if any money, or security for the payment of money, shall be entrusted to any *banker, merchant, broker, attorney, or other agent*, with any direction in writing to apply such money, or any part thereof, or the proceeds, or any part of the proceeds of such security, for any purpose specified in such direction, and he shall in violation of good faith, and contrary to the purpose so specified, in anywise convert to his own use or benefit such money, security, or proceeds, or any parts thereof respectively,—*Misdemeanor, punishable with Transportation not exceeding fourteen years; or with Fine or Imprisonment, or both, at the discretion of the Court.*

By the same section, if any chattel, or valuable security, or any power of attorney for the sale or transfer of any share or interest in any public stock or fund, or in any fund of any body corporate, company, or society, shall be entrusted to any *banker, &c.* for safe custody, or for any special purpose, without any authority to sell, negotiate, transfer, or pledge, and he shall, in violation of good faith, and contrary to the object or purpose for which the same shall have been entrusted to him, *sell, negotiate, transfer, pledge, or in any manner convert to his own use or benefit* such chattel or security, or the proceeds of the same, or any part thereof, or the share or interest in the stock or fund to which such power of attorney shall relate, or any part thereof; *Misdemeanor, punishable as above.*

Qualification of enactment.—But by sect. 50, the above provisions are not to affect trustees or mortgagees, in respect of any act done by

them in relation to the property comprised in or affected by any such trust or mortgage; nor to restrain any banker, &c. from receiving any money which shall be or become actually due and payable upon or by virtue of any valuable security, according to the tenor and effect thereof, in such manner as he might have done if the act had not been passed; nor from selling, transferring, or otherwise disposing of any securities or effects in his possession, upon which he shall have any lien, claim, or demand entitling him by law so to do, unless such sale, &c. shall extend to a greater number or part of such securities or effects, than shall be requisite for satisfying such lien, claim, or demand.

Factors pledging Goods, &c.—By sect. 51, if any *factor*, or *agent*, entrusted for the purpose of sale with any goods or merchandize, or entrusted with any bill of lading, warehouse-keeper's or wharfinger's certificate, or warrant or order for delivering of goods or merchandize, shall for his own benefit, and in violation of good faith, *deposit or pledge* any such goods or merchandize, or any of such documents, as a security for any money or negotiable instrument borrowed or received by such factor or agent at or before the time of making such deposit or pledge, or intended to be thereafter borrowed or received; *Misdemeanor*; *Transportation for seven or fourteen years*; or *Fine or Imprisonment, or both*.

Qualification of enactment.—But no such factor or agent shall be so liable for depositing or pledging any such goods, &c., in case the same shall not be made a security for or subject to the payment of any greater sum of money, than the amount (at the time of such deposit or pledge) justly due and owing to such factor or agent from his principal, together with the amount of any bills of exchange drawn by or on account of such principal and accepted by such factor, or agent.

For embezzlement by *clerks* and *servants*, which is now treated by the law as a larceny, and for embezzlement by *workmen* employed in particular trades, see *post*, *Servants* (i).

1. *Commitment of a Banker, or Agent, for converting to his own use Securities deposited with him for a particular Purpose specified in written directions, under 7 & 8 Geo. 4, c. 29, s. 49 (k).*

Kent, } To the constable of —, in the county aforesaid, and to the keeper
to wit. } of the common gaol at —, in the said county.

Forasmuch as C. D. has been this day charged before me, J. P., esquire, one of her

(i) And see further on this subject, 1 (k) See *ante*, p. 244.
Deac. Crim. Law, 375.

Majesty's justices of the peace in and for the said county of Kent, on the oath of A. B., of &c., for that he the said C. D., on the — day of — last, at the parish of —, in the said county, being then and there a stockbroker, was intrusted by the said A. B. with three exchequer bills for the sum of 1000*l.* each, with directions in writing to the said C. D., as such stockbroker, to apply the proceeds of such exchequer bills for the purpose of investing the same in the three per cent. consolidated bank annuities; and the said C. D., in violation of good faith, and contrary to the purpose so specified in the said directions, then and there unlawfully did convert to his own use and benefit the proceeds of the said exchequer bills so to him intrusted as aforesaid, against the form of the statute in such case made and provided: These are, therefore, in the Queen's name, to command you, the said constable, forthwith to convey and deliver into the custody of the said keeper of the said common gaol, the body of the said C. D. And you, the said keeper, are hereby required to receive the said C. D. into your custody in the said common gaol, and him there safely keep, until he shall be thence delivered by due course of law. Given under my hand and seal this — day of —, in the year of our Lord 1842.

2. *Commitment of an Agent for converting to his own use Bills of Exchange deposited with him for safe Custody, without any written directions, under the same section (k).*

Kent,
to wit. } [*As before.*]

Forasmuch, &c. [*as in the last precedent,*] for that he the said C. D., on the — day of —, at —, in the county aforesaid, was intrusted by the said A. B., as the agent of him the said A. B., with two valuable securities, to wit, two bills of exchange for the payment respectively of the two several sums of 100*l.* and 200*l.* for safe custody, without any authority to sell, negotiate, transfer, or pledge the same; and the said C. D., in violation of good faith, and contrary to the purpose for which the same bills were intrusted to him, then and there unlawfully did negotiate and transfer the said bills of exchange to some other person or persons, against the form of the statute in such case made and provided: These are therefore, &c. [*as in the last precedent.*]

3. *Commitment of a Factor for pledging Goods, under the 7 & 8 Geo. 4, c. 29, s. 51 (l).*

[*Commencement as in form, No. 1.*] for that the said C. D. being intrusted by the said A. B., as the factor and agent of him, the said A. B., with three pipes of wine for the purpose of sale, did, on the — day of —, at —, in the county aforesaid, for his own benefit, and in violation of good faith, pledge the said pipes of wine with one E. F., as a security for money borrowed by the said C. D. of the said E. F., at the time of making such pledge, against the form of the statute in such case made and provided: These are therefore, &c. [*as in form No. 1.*]

—◆—
Emigration—See *Ships*.
—◆—

Escape.

LIABILITY of the Officer.]—Whenever an officer, having a party lawfully in his custody on a charge of felony, *voluntarily* permits him to escape, the officer is involved in the legal guilt of the crime charged on his prisoner (*m*). Where he *negligently* permits a prisoner to escape, he is guilty of a misdemeanor; and he is also guilty in this degree, if a prisoner in his charge commits suicide.

What amounts to an Escape.]—In order, however, to make an escape, there must be an actual arrest; and therefore if an officer, having a warrant to arrest a man, see him shut up in a house, and challenge him as his prisoner, but never actually have him in his custody, and the party get free, the officer cannot be charged with an escape (*n*). The arrest must be also justifiable; for if it be either for a supposed crime, where no such crime was committed, and the party not indicted,—or for such a slight suspicion of an actual crime, or by such an irregular *mittimus*, as would neither justify the arrest nor imprisonment,—the officer is not, in either of these cases, guilty of an escape by suffering the prisoner to go at large (*o*). And as the imprisonment must be justifiable, so it must be also for a criminal offence (*p*); for if the imprisonment be for debt, the officer is then only liable to an action for damages. If a gaoler, or other officer, shall license his prisoner to go abroad for a time and to come again, this is an escape, even though the prisoner return again (*q*).

Retaking the party.]—Whenever a person is lawfully arrested for any cause, and afterwards escapes, the officer may retake him wherever he finds him; and if he shelters himself in a house, the doors may be broken open to take him, on a refusal of admittance (*r*).

By 44 Geo. 3, c. 92, s. 3, offenders, against whom any warrant shall be issued, escaping *from Ireland into England or Scotland*, may be apprehended by an indorsed warrant, and conveyed to *Ireland*; and the 4th section of the act makes the same provision, as to offenders escaping *from England or Scotland into Ireland* for their being apprehended and conveyed back again to *England or Scotland*.

The apprehension of persons escaping *from England into Scotland*, and *from Scotland into England*, is provided for by stat. 13 Geo. 3, c. 31.

(*m*) 2 Hawk. c. 19, s. 40.

(*n*) Ibid. s. 1.

(*o*) Ibid. s. 2.

(*p*) Ibid. s. 3.

(*q*) Dalt. c. 159.

(*r*) 2 Hawk. c. 14, s. 9.

Punishment..]—Wherever a person is found guilty upon an indictment for the *negligent* escape of a criminal actually in his custody, he is punishable by *fine and imprisonment*, according to the quality of the offence (s). And as a *voluntary* escape, suffered by an officer, amounts to the same kind of crime as that charged upon the prisoner, the officer is punishable in the same degree as the offender would be upon conviction, whether it be treason, felony, or trespass, if the cause be expressed in the commitment (t).

Aiding prisoners to escape..]—But the mere aiding a party lawfully confined in prison to attempt to escape, though no escape should ensue, is made highly penal by 4 Geo. 4, c. 64, s. 43; which enacts, that if any person shall convey, or cause to be conveyed, into any prison to which that act extends (u), any mask, vizard, or other disguise, or any instrument or arms proper to facilitate the escape of any prisoners, and the same shall deliver, or cause to be delivered, to any prisoner in such prison, or to any other person there for the use of any such prisoner, without the consent or privity of the keeper of such prison,—every such person shall be deemed to have delivered the same, with intent to aid and assist such prisoner to escape, or attempt to escape; and if any person shall, by any means whatever, aid and assist any prisoner to escape, or in attempting to escape, from any prison, every person so offending, whether an escape be actually made, or not, shall be guilty of *felony*, and being convicted thereof, shall be *transported beyond the seas for any term not exceeding fourteen years*.

Of prisoners of War..]—The 52 Geo. 3, c. 156 provides against the aiding of the escape of *prisoners of war*, and enacts, that “every person who shall knowingly and wilfully aid or assist any alien enemy of his Majesty, being a prisoner of war in his Majesty’s dominions, whether such prisoner shall be confined as a prisoner of war in any prison, or other place of confinement, or shall be suffered to be at large in his Majesty’s dominions, or any part thereof, on his parole, to escape from such prison, or other place of confinement,—or from his Majesty’s dominions, if at large upon parole,”—shall, upon conviction, be adjudged guilty of *felony*, and be liable to be transported for life, or for fourteen or seven years.

(s) 2 Hawk. c. 19, s. 31; c. 20, s. 6.

(t) Ibid. c. 19, s. 22.

(u) The only prisons exempted from the operation of the act, are, the Queen’s

Bench, the Fleet, Bridewell, the Marshalsea, the Milbank Penitentiary, the Penitentiary at Gloucester, and the Hulks, *sect.* 76.

1. *Warrant to apprehend a person for escaping.*

Kent, }
to wit. } To the constable of the parish of —, in the said county.

Forasmuch as A. B., keeper of the common gaol, at —, in the county aforesaid, hath this day made information and complaint before me, J. P., esquire, one of her Majesty's justices of the peace in and for the said county, that C. D. hath unlawfully and wilfully escaped from the said gaol, and from and out of the custody of him the said A. B., the keeper thereof, before the expiration of a certain term for which he the said C. D. was ordered to be imprisoned therein : These are therefore, in her Majesty's name, to command you, the said constable, forthwith to apprehend and bring before me, or some other of her Majesty's justices of the peace for the said county, the body of the said C. D., to answer unto the said complaint, and to be further dealt with according to law. Herein fail you not. Given under my hand and seal, this — day of —, 1842.

2. *Commitment of a Constable for the negligent Escape of a prisoner.*

Kent, } J. P., esquire, one of her Majesty's justices of the peace for the said
to wit. } county, to the constable of —, in the said county, and to the keeper of
the common gaol at —, in the said county.

These are to command you, the said constable, in her Majesty's name, forthwith to convey and deliver into the custody of the said keeper of the said common gaol, the body of C. D., charged this day before me the said justice, on the oath of A. B. of — and others, for that he the said C. D. on the — day of —, in the year of our Lord 1842, at the parish of — in the said county, having one E. F. in his custody, under and by virtue of a warrant of one of her Majesty's justices of the peace, on suspicion of having feloniously and burglariously broken open the dwelling-house of one G. H., did unlawfully and negligently permit the said C. D. to escape. And you the said keeper are hereby required to receive the said C. D. into your custody, in the same common gaol, and him there safely to keep until he shall be thence delivered by due course of law. Herein fail you not. Given under my hand and seal the — day of —, in the year of our Lord 1842.

3. *Commitment of the party escaping, and the party aiding him.*

Kent, } [As in form No. 2.] For that he the said C. D., on the — day of
to wit. } —, A. D. 1842, at the parish of —, in the said county, being lawfully in the custody of one E. F., a constable, under and by virtue of a warrant of one of her Majesty's justices of the peace, on suspicion of having feloniously and burglariously broken open the dwelling-house of one G. H., unlawfully did escape out of the custody of the said E. F.; and that K. L., late of &c., did then and there feloniously and unlawfully aid and assist the said A. B. in so escaping as aforesaid. And you the said keeper &c. [as in form No. 2 to the end.]

4. *Commitment for conveying Instruments to a prisoner, to enable him to escape, on*
4 Geo. 4, c. 66, s. 43 (x).

[Commencement as in form No. 2.] For that the said C. D., on the — day of —,

A. D. 1842, at the parish of — in the said county, feloniously and unlawfully did convey into the common gaol at —, in the said county, three picklock keys, being instruments proper to facilitate the escape of prisoners, and delivered the same to one E. F., who was then in custody there for feloniously and burglariously breaking open the dwelling-house of one G. H., with intent to aid and assist the said E. F. to escape from and out of the said gaol, against the form of the statute in such case made and provided. And you the said keeper &c. [*conclude as in form No. 2.*]

Evidence.

THE general rules of evidence apply to all proceedings before a justice of the peace, unless altered or modified in any respect by the statute which gives him jurisdiction over the offence. Thus a party directly interested in the result of a question to be decided by a magistrate, as an informer who is entitled to a portion of the penalty, is an incompetent witness, unless the act relating to the subject-matter declares that his evidence shall be received. The *credibility* of a witness depends more upon his demeanor in giving his evidence, than upon any fixed rules. But his *competency* is determined by certain known rules of law, which it will be useful shortly to notice.

One witness is sufficient to prove the commission of an offence charged against any party, except where a statute declares there must be *two*.

Want of religious principle.—Persons who do not believe in the existence of God, or in a future state of reward and punishment, are not competent to be examined as witnesses.

Want of Understanding.—So, all persons who labour under a total defect of understanding, as *idiots* and *lunatics*.

But *children* of any age may be examined, if they are capable of distinguishing between good and evil; for their competency does not depend on their age, but on their understanding.

Infamy of Character.—Persons attainted of treason, felony, and every species of the *crimen falsi*, such as forgery, perjury, and attain of false verdict, are held incompetent. Some offences, also, after conviction and judgment, equally disqualify a witness; such as *præmunire*, barrety, bribing a witness to absent himself, or conspiracy (*y*). So, a person convicted of winning by fraud in certain games specified in the 9 Ann. c. 14, s. 5, is not a competent witness; for the statute declares that he shall be deemed *infamous*; and one

of the legal consequences of infamy is incompetency to give evidence. Outlawry in a *personal* action does not make the defendant incompetent; but otherwise in *Treason*, or *Felony*; for then the judgment of outlawry has the same effect as judgment after verdict. But incompetency from *infamy* may be removed by the King's pardon,—by endurance of the punishment, except in the case of perjury,—or by reversal of judgment.

An *accomplice* is a competent and admissible witness; but, in order to convict an offender, his testimony ought to be confirmed in some degree by another witness.

What Interest disqualifies.—The interest to disqualify a witness must be some certain, legal, and immediate interest in the event of the proceeding; as the case already mentioned of an *informers*, who is entitled to any part of a penalty. An inhabitant of a parish or a county is, by common law, an incompetent witness in all questions which relate to the benefit or burthen of the parish or the county. But by 27 Geo. 3, c. 29, in all cases where pecuniary penalties go to the poor of the parish, the inhabitants of the parish are competent witnesses, if the penalties do not exceed 20*l*. And there are various statutes, such as the 54 Geo. 3, c. 170, and 3 & 4 Vict. c. 26, which render inhabitants of counties and parishes competent witnesses, notwithstanding they are liable to the county or parochial rates; and there is now, generally, a provision to this effect in every act, which gives any portion of a penalty to the use of the poor of a parish, or in aid of the county rate. By 9 Geo. 4, c. 32, s. 2, no person shall be deemed an incompetent witness in support of any prosecution for *forgery*, by reason of any interest which he may have, or be supposed to have, in respect of the document alleged to be forged.

Husband and wife being but one person in law, and their interest absolutely the same, they cannot swear for the benefit of each other, any more than a man can be a witness for himself; neither can they be witnesses against each other. But in all cases of personal injury to the wife, she is, on the principle of humanity and justice, as well as *ex necessitate*, admitted as a witness against her husband; though she ought, in strictness, only to be admitted to prove facts, which cannot be proved by any other witness. And this rule of receiving the wife's testimony against the husband is confined to those cases, where the charge affects the liberty or the person of the wife, in respect of *direct force*, *threat*, or *fraud*, practised by the husband against the wife herself; and the same with respect to the admission of the husband as a witness against the wife.

Hearsay Evidence.—Hearsay evidence is not admissible ; but the person who knows the fact must be called to prove it. There are, however, certain exceptions to this rule in the case of death, or when the hearsay evidence is considered part of the *res gestæ*. Thus, where a former witness dies, after he has been examined upon oath in a former prosecution between the same parties, where the point in issue was the same—what the witness swore on the former occasion may be proved by any one who heard him give evidence. So, in cases of homicide, the declaration of the deceased, if *in extremis*, and he has no hope of recovery, are as admissible, as if they had been made upon oath. So also, in all cases where several parties are implicated in an offence, what one says at the time of the commission of it, in the presence of the others, may be given in evidence against them, as part of the *res gestæ*.

The magistrate should, in all cases, take the evidence in the presence of the party accused ; and evidence for and against him ought to be given *upon oath* ; except in the case of *Quakers* and *Moravians*, who are now permitted to affirm by 9 Geo. 4, c. 32.

As to the duty of the justice in taking the depositions of the witnesses in cases of felony and misdemeanour, see *infra*, Examination.

Examination.

BY 7 Geo. 4, c. 64, ss. 2, 3, a justice of the peace, before he admits to bail, or commits to prison, any person arrested for felony or misdemeanour, is required to take the examination of the party, and the information upon oath of those who shall know the facts and circumstances of the case, and to put the same, or as much thereof as shall be material, into writing ; and every such justice shall have authority to bind by recognizance all such persons, as know or declare any thing material touching any such felony or misdemeanour, to appear at the next court of *oyer and terminer*, or gaol delivery, or sessions of the peace, at which the trial is intended to be, to prosecute or give evidence against the party accused. And the justice must subscribe all such examinations, informations, bailments and recognizances, and deliver the same to the proper officer of the court in which the trial is to be.

By *sect. 5*, If any justice shall offend contrary to the above provisions, the court, to whose officer any such proceeding ought to have been delivered, may set such fine upon the justice as the court shall think meet.

The examination of the party accused ought not to be taken on oath. He may be allowed to speak *voluntarily* in answer to the charge against him; but he ought not to be *examined* or *questioned* by the magistrate, like a common witness. If he confess the matter charged against him, he should sign the confession, after it has been read over to him.

As to the commitment of a party for further examination, see *ante*, **Commitment**.

For the examination of a witness, see *post*, title **Witness**.

Examination of a Party accused.

Surrey, } The examination of A. B., of —, labourer, taken this — day of
to wit. } —, in the year of our Lord 1842, before me, J. P., esquire, one of
her Majesty's justices of the peace for the county aforesaid.

The said A. B., being charged before me, the said justice, on the oath of C. D., of —, farmer, for that he the said A. B., on — at &c. [*describing the offence as in a warrant of commitment*]: Upon his examination now taken before me, saith "I am not guilty of the offence with which I am charged, I bought the goods in question," &c. [*stating what the accused says as nearly as possible in the words he used; or, if the accused declines to say any thing in his behalf, the examination, after stating the offence with which the party is charged, as above, may proceed thus:*] and the witness against the said A. B. being examined in his presence, the said A. B. is now asked by me if he wish to say any thing in his behalf, whereupon the said A. B. saith "I shall not say any thing now," &c. [*stating whatever the prisoner may say as near as possible in his own words.*]

A. B.

Taken before me the day and year }
above mentioned. } J. P.

Excise.

And see **Forgery**.

THE same reason, which has been already expressed for a mere reference to the statutes relating to the duties of the *Customs*, must suffice for a cursory notice of those imposing duties of *Excise*; after which the jurisdiction of magistrates in the execution of the excise laws will be more specifically described.

The 42 Geo. 3, c. 38, 5 Geo. 4, c. 54, and 9 Geo. 4, c. 68, relate to *brewers*.

11 Geo. 4 & 1 Will. 4, c. 51, relates to duties on *cyder* and on *beer and ale*.

The 6 Geo. 4, c. 80, and 11 Geo. 4 & 1 Will. 4, c. 49, relate to the duties on *British spirits*.

The 7 & 8 Geo. 4, c. 52, 11 Geo. 4, c. 17, and 7 Will. 4 & 1 Vict. c. 49, relate to the *malt* duties.

The 9 Geo. 4, c. 44, relates to the duties on *tea, coffee, cocoa, pepper, tobacco, snuff, and foreign and colonial spirits and wine.*

The 7 & 8 Geo. 4, c. 53, and 4 & 5 Will. 4, c. 51, relate to the collection and management, generally, of the Excise duties.

2 & 3 Will. 4, c. 16, for consolidating and amending the law relating to *permits.*

3 & 4 Will. 4, c. 16, and 2 & 3 Vict. c. 32, 63, relate to the duties on *soap.*

6 & 7 Will. 4, c. 52, relating to the duties on *vinegar.*

6 & 7 Will. 4, c. 72, relating to *distillers and retailers of spirits.*

7 Will. 4 & 1 Vict. c. 57, relating to duties on *sugar made from beetroot.*

1 & 2 Vict. c. 44, and 2 & 3 Vict. c. 25, relate to the duties on *glass.*

2 & 3 Vict. c. 23, relates to the duties on *paper.*

2 & 3 Vict. c. 24, relates to the duties on *bricks.*

4 Vict. c. 20, makes various alterations in the previous laws for the collection and management of the duties of Excise, and gives an appeal from the decisions of the Commissioners of Excise to the barons of the Exchequer.

Jurisdiction of Justices.]—By 7 & 8 Geo. 4, c. 53, s. 65, for the recovery of any penalty imposed by that or any other act of parliament relating to the revenue of Excise, where the offence shall have been committed, or the person committing the same be found, or where the goods shall have been seized, within the limits of the chief office of Excise in London, the case may be heard and determined by any three of the Commissioners of Excise. But, where the offence is committed, or the person or persons found, or the goods seized, *out of the limits of the chief office,* the information may be exhibited before any one or more justices of the peace for that county or place, and be heard and determined by any *two justices.* And where any such information shall be exhibited before a justice of any county, in which there are several and district commissions of the peace, the proceedings thereon shall not be liable to any objection by reason of the offence having been committed in any city or place of such county having local jurisdiction.

Extent of Jurisdiction of Chief Office.]—By sect. 14, all parts of the cities of *London and Westminster, borough of Southwark, and the parishes within the weekly bills of mortality, together with the parishes of Saint Mary-le-bone and Saint Pancras, in the county of*

Middlesex, are declared to be within the immediate jurisdiction of the chief office of Excise.

Magistrates of adjoining County.]—By *sect. 19*, where the attendance of two magistrates of the county where the offence was committed cannot be conveniently obtained, a magistrate of any adjoining county, with one magistrate of that in which the offence was committed, may act in all proceedings had under any act for the prevention of smuggling, or relating to the revenue of Customs or Excise.

Meetings of Justices.]—By *sect. 67*, two or more justices shall meet once in every three months in their respective jurisdictions, or oftener if there shall be need, to hear and determine all matters and things brought before them relating to the revenue of Excise.

Where a Justice dies.]—By the same section, if any justice (before whom any proceeding is had) shall die, or be absent, before any judgment shall be thereupon given, or be duly executed, so that the further attendance of such justice cannot be procured, any other justice within the same jurisdiction may act in his stead.

What Justices disqualified.]—By *sect. 68*, no assistant Commissioner or officer of Excise, or person employed in the collection or management of the Excise, can act as a justice of the peace in any matter relating to the Excise, nor can any trader subject to the Excise laws so act, in any case which relates to his particular trade or business, or in any case in which he shall be interested. If any such person shall presume so to act, all proceedings are declared to be void.

Obstructing Officers.]—By *sect. 24*, every person opposing or hindering any Excise officer in the execution of his duty is liable to a penalty of 200*l.* And by *sect. 40*, if any person, armed with an offensive weapon, shall, with force or violence, assault or resist any officer in making any seizure, he may oppose force to force; and if such person shall be wounded or killed, and the officer be prosecuted in consequence, he may be admitted to bail by any magistrate before whom he may be brought.

Removing or concealing Goods.]—By *sect. 32*, all goods fraudulently removed or concealed, to evade the duties, are liable to forfeiture, as well as the packages or conveyances used for containing or removing them; and every person concerned in so doing is liable to a forfeiture of treble the value of the goods, or of 100*l.*

Unentered Manufactories.]—By *sect. 33*, persons found employed

in unentered manufactories, which are subject to the Excise laws, are liable to a penalty of 30*l.*, and for a second offence to a penalty of 60*l.*

When a search warrant may be granted.—By *sect. 34*, if an officer of Excise shall have cause to suspect that any forfeited goods are deposited or concealed in any place, then upon oath being made by him before two Commissioners, or one justice, setting forth the ground of suspicion, the Commissioners or the justice may, by special warrant under his or their hands respectively, authorize such officer by day or night,—but if between the hours of eleven at night and five in the morning, then in the presence of a constable, or other lawful officer of the peace,—to enter into such suspected place and to seize and carry away the goods concealed there, and, in case of resistance, to break open any door, and to force and remove any other impediment or obstruction.

By *sect. 36*, if a constable refuses to go with the excise officer, when his presence is thus required, he incurs a penalty of 20*l.* And by *sect. 39*, any person obstructing an officer in making such seizure, or rescuing the goods, or destroying the casks or packages containing the same, is liable to a penalty of 200*l.*

Time limited for prosecutions.—By 4 & 5 Will. 4, c. 51, s. 19, every information for the recovery of any penalty, or for the condemnation of any seizure, must be exhibited within four calendar months next after the commission of the offence, or the time of seizure.

Mode of proceeding.—By 7 & 8 Geo. 4, c. 53, s. 61, all proceedings for the recovery of any penalty or forfeiture, incurred under any act relating to the Excise or Customs, must be instituted by order of the Commissioners of one of those boards respectively, and in the name and at the suit of an officer of Excise or Customs, or in the name of the Attorney or Solicitor General.

Joint offenders.—By *sect. 70*, where a penalty is imposed upon every person committing an offence, and the offence is committed by several persons jointly, they jointly and severally incur the penalty, and they may be proceeded against either jointly or severally. *

Hearing and Judgment.—By *sect. 65*, the Commissioners of Excise, and any two justices, after any information is exhibited before them, are authorized, upon the appearance and pleading of the party, or the claimant of goods alleged to be forfeited, or, in default of such

appearance and pleading, upon proof of the service of the summons, to proceed to the examination of the fact alleged against the party, and to give judgment for the penalty or the forfeiture of the goods, upon the examination of one credible witness upon oath, and thereupon to grant a warrant under their hands for the due execution of such judgment. And by *sect. 73*, judgment may be given, notwithstanding any defect of form in the information or any other proceeding.

Where one Justice may act.—But by 7 & 8 Geo. 4, c. 56, s. 7, in all cases the information may be received by one justice, who may issue a summons for the appearance of the party before any two justices, and after the hearing and conviction before such two justices, any one justice may issue his warrant to enforce the conviction, which warrant may be executed in any county.

Time of imprisonment.—And where, in default of payment of the penalty, the imprisonment of the party takes place for the space of six months, the time of imprisonment is to be reckoned from the time of its commencement.

Service of Notice and Summons.—By 4 & 5 Will. 4, c. 51, s. 19, a notice in writing of any information having been exhibited against a party must be given to him within one week afterwards, and the Commissioners of Excise, or the justice, before whom the information is exhibited, may summon the party to appear before them at a time and place named in such summons. The summons must be served ten days at the least before the time appointed for the appearance of the party, and may be added to, or may include the notice, or may be separate and apart therefrom, and be served at a different time subsequent to the delivery of the notice. But where any information is exhibited for the recovery of double duties, the summons must then be served twelve hours at the least before the time appointed for the attendance of the party. It is a sufficient service of any notice or summons, if a copy be left at the place used or occupied by the party for carrying on his trade or business, or at the building or place where the offence is committed, or the seizure made, or at the residence of the party, with his wife, or child, or servant, being directed to him by his right or assumed name. But where the offence is committed or discovered in transit, or any seizure made in transit, and the place of business or residence of the offender is unknown, then a copy of the notice and summons may be affixed upon some conspicuous part of the office of the Excise next to where the offence shall have been committed or discovered, or the seizure made, directed

to the offender by his right or assumed name, if the same shall be known to the prosecutor, and if not known, then without any name.

Where the party summoned is in Prison.—By 7 & 8 Geo. 4, c. 53, s. 77, where any person shall be in prison on any account whatsoever, and any information is exhibited against him for the recovery of any penalty, or for the condemnation of any goods, then a copy of the information may be delivered to the gaoler or turnkey of the prison, with a summons to appear at a time and place named in such summons. And if he shall not appear and plead in person, or by some person duly authorized, the same proceedings may be had, as are provided in the case of any default of appearance to any such information.

How value of Goods computed.—By 7 & 8 Geo. 4, c. 56, s. 6, where the amount of any penalty is to be determined by the value of any goods, such value shall be deemed and taken to be according to the rate and price, which goods of the like sort or denomination and of the best quality bear at such time in London, and upon which the duties due upon importation have been paid.

And by 7 & 8 Geo. 4, c. 53, s. 69, where a penalty of treble the value of goods is imposed, the offender shall thereupon forfeit either such treble value, or the sum of 100*l.*, at the election of the Commissioners or the prosecutor.

Power of mitigation.—By sect. 78, the Commissioners of Excise, and the justices of the peace, except where the latter are restrained from so doing, may mitigate any penalty, so as such mitigation shall not reduce such penalty to less than one-fourth part thereof. But the Commissioners may further mitigate, or entirely remit, any such penalty.

But by 4 & 5 Will. 4, c. 51, s. 20, upon the hearing and determining of any information for the recovery of double the value of any duty, the justices have no power to mitigate the penalty. And no justice before whom any person is brought, who has been arrested and detained under any act relating to the Excise, and who, upon non-payment of any penalty, is liable to be committed to prison for a limited period, has any power to mitigate such penalty, except where a special power is given.

Application of penalties.—By 7 & 8 Geo. 4, c. 56, s. 11, all penalties and forfeitures recovered before any justice of the peace must be paid to the Commissioners of Excise, or to the person ap-

pointed by them to receive the same, to be applied by them in such manner as the law directs.

Where there is no claimant of Goods seized.—By 7 & 8 Geo. 4, c. 53, s. 93, where any seizure is made of any goods within the limits of the chief office, and no person shall appear to claim them, the officer making such seizure may, after the expiration of fourteen days, cause notice in writing, signed by the solicitor of Excise, to be affixed on some conspicuous part of the outside of the chief office of Excise, signifying the day when the Commissioners will proceed to hear and judge the matter of such seizure; and if the seizure is made out of the limits of the chief office, then the officer must cause a notice issued by any justice, within whose jurisdiction the seizure shall have been made, and before whom any information shall have been exhibited for the condemnation of the goods, to be affixed on some conspicuous part of the outside of the office of Excise next to the place where such seizure shall have been made, during the market day next after the expiration of six days from the day of the seizure, or during any other subsequent market day, in which notice there shall be specified the day (the same being any day after eight days from the date of such notice) and the place, when and where the justices will proceed to the hearing and adjudging of the matter of any such seizure; and the Commissioners and justices, within their respective jurisdictions, are authorized to proceed to examine into the cause of any such seizure, and to give judgment accordingly; and such judgment shall be as good and valid in law, as if the respective proprietors of the goods were respectively summoned.

Where any Cattle, or Goods of a perishable nature are seized.—But by sect. 94, where any horses, or other cattle, or any goods of a perishable nature, are seized, the Commissioners may order such seizure to be delivered up to the claimant, upon his entering into a bond to her Majesty in the penalty of double the value of the property delivered up, conditioned for payment of the appraised value thereof. If no claimant shall appear, or if, appearing, such claimant shall refuse or neglect to enter into such bond, the Commissioners may then, after the expiration of fourteen days from the seizure, order all such property to be sold by public auction, notwithstanding the condemnation thereof shall not have taken place. But if any such horses, cattle, or goods shall be afterwards ordered to be restored, without any proceeding being instituted for the condemnation thereof, or, if instituted, before the same shall have been condemned,—or if

upon the hearing or trial the decision or verdict shall be in favour of the claimant, the appraised value of the property, or the proceeds of the sale thereof respectively, at the election of the claimant, shall, on demand, be paid to such claimant by the Commissioners of Excise, together with such further reasonable sum, by way of compensation for the loss sustained by reason of the seizure, detention, and sale of such property, as the Commissioners shall think fit; and if the proprietor or claimant of the property shall accept such appraised value, or proceeds of sale, together with such further sum as aforesaid, he shall not be entitled to maintain any action or suit for any recompence or damage on account of such seizure, detention, or sale.

Evidence—Proof of averments.—By 7 & 8 Geo. 4, c. 53, s. 71, where in any information any averment shall be made that such information was exhibited by an officer of the Excise or Customs, or that the Commissioners had ordered such information to be exhibited, or that the Commissioners, or the informant, or person suing, had made his election as in such information shall be alleged, no evidence need be given of any such averment.

Proof of seizures.—By sect. 64, in all trials of seizures, the seizure, together with the form and manner of making the same, shall be taken to have been as set forth in the information, without any evidence thereof; and all justices and other judicial persons, before whom any such seizure shall be brought to trial or hearing, are authorized to proceed to trial on the merits of the cause, without inquiring into the fact, form, or manner of making the seizure.

Proof of persons being Commissioners, &c.—By sect. 17, if upon the trial of any information, &c. any question shall be made, or any doubt or dispute shall arise, touching or concerning the keeping of any office of Excise, or whether any person is or was a Commissioner, or Assistant Commissioner, or a Collector, or other officer of Excise, commissioned or appointed to act as such, evidence of the actual keeping of such office of Excise, or that such person is, or at the time in question was, reputed to be such Commissioner or other officer, or does or did then act as such, shall be admitted and taken to be sufficient and legal proof of such facts respectively, without producing or proving the particular commission or appointment, whereby such person is or was commissioned or appointed; unless by other evidence the contrary be made to appear.

Proof of Treasury Order.—By sect. 72, where it may be necessary to give proof of any order issued by the Commissioners of the

Treasury or Excise, the letter or instructions, which shall have been officially received by the collector or other officer of Excise of the district or place in which the subject-matter of any information or other proceedings may have arisen, for the direction and government of such collector or officer, and in which such order is mentioned or referred to, and under which said letter or instructions such collector or officer shall have acted, shall be admitted and taken to be sufficient evidence and proof of such order.

Proof of payment of Duty, or exemption.]—By *sect. 76*, if, upon any information or other judicial proceeding, any question shall arise, whether any duty of Excise or Customs has been paid upon or in respect of the goods in such information mentioned, or whether such goods are of such sort or kind as in that behalf alleged, the proof of the payment of such duty, or that the goods are not of such sort or kind, shall lie upon the proprietor or claimer thereof.

Witnesses.]—By *7 & 8 Geo. 4, c. 53, s. 75*, any officer of Excise, or any other person, who shall or may be entitled to the whole, or any share, of any penalty or forfeiture, shall be admitted by the court in which, or the Commissioners or the justices before whom, such information shall be tried or heard, to give evidence upon such information, and shall be deemed and taken to be a competent witness, notwithstanding any such interest as aforesaid.

By *sect. 30*, a Quaker's affirmation is in all cases receivable, instead of an oath.

Penalty on Witnesses for not attending, &c.]—By *sect. 74*, the Commissioners of Excise, and justices of the peace, as well as the Commissioners of Appeal therein mentioned, may summon any person, other than the person against whom any information is exhibited, in whatever part of the united kingdom he shall then reside or be, to appear before them at a certain time and place to be specified and set forth in such summons, to give evidence upon oath of the truth of any facts alleged in such information, or touching any matter or thing relating to the Excise. And every person being so summoned, and having the reasonable expenses for such attendance tendered, who shall neglect or refuse to appear according to the exigency of such summons, or who having so appeared shall refuse to be sworn or give evidence accordingly to the best of his or her knowledge and belief, or to answer any legal question when thereunto required, is liable to a penalty of 50*l.*

Appeal.]—By *sect. 82*, an appeal is given to the next sessions, and

any defects in form may be amended; but by *sect. 83*, the appellant must give notice of the appeal to the convicting justices and the adverse party. And by *sect. 81*, where the judgment appealed against shall be a conviction in any penalty of the party appealing, such party must also, within three days next after the giving of the judgment, deposit with the proper officer of Excise the amount of the penalty; or where the judgment appealed against shall be either for or against the condemnation of any goods seized as forfeited, such goods shall be so deposited, until the final determination of the appeal.

By 4 & 5 Will. 4, c. 51, s. 24, if the justices, before whom any information is exhibited, dismiss it without examination of witnesses, or refuse to examine any witnesses produced, the several witnesses shall be tendered to the justices for examination on the part of the informer, or defendant, as the case may be, and the justices shall, on ascertaining the witnesses to be present, transmit their names, with the information and judgment, to the sessions; and the several witnesses, whose names shall be so transmitted, shall, on the hearing of the appeal, be examined in the case, although not examined before the Commissioners or justices on the original hearing.

By 7 & 8 Geo. 4, c. 53, s. 83, where the judgment appealed against shall be affirmed, it shall be enforced and executed by the justices below in like manner as if there had been no appeal.

By *sect. 86*, where any judgment is required to be enforced by the justices below, they may apply the deposit money in satisfaction of the judgment; and, if not sufficient, may grant a warrant for the sale of the goods condemned. And where the judgment is for any penalty, they may grant a warrant to levy it on the goods of the convicted party.

What Goods continue liable to be seized.—By *sect. 28*, all goods in respect whereof any duty of Excise is imposed, and all materials, utensils, and vessels for the making thereof, or by which the trade or business shall have been carried on, in the possession of the person carrying on such business, or of any other person in trust for him, are liable to all penalties and forfeitures, which during such possession shall be incurred by the person carrying on the business, for any offence by him committed against the Excise; and all such goods, &c. remain liable to all such penalties, into whose hands soever the same shall afterwards come, or by what conveyance or title soever they shall be claimed. And it shall be lawful in all such cases to levy thereupon such penalties and forfeitures, and to use such proceedings for the recovery or enforcement thereof, as may lawfully be done in

cases where the offenders are the true and lawful owners of the goods.

Time limited for sale.—By *sect. 88*, any levy warrant may direct that the goods seized may be sold and disposed of after a certain time limited in such warrant, so as it be not less than four days, nor more than eight days, unless the penalty shall within the time limited be paid.

Application of the proceeds.—By *sect. 89*, the officer of Excise making such levy is to deduct the penalty or sum for which such levy shall be made, and all reasonable charges, out of the money arising by such sale, and return the overplus (if any) to the proprietor of the goods, or the person legally entitled thereto. He must also, if required, show the warrant to the person upon whose goods such levy shall be made, and suffer him to take a copy thereof. The warrant is declared to be of the same force and effect as a writ of *feri facias* issued out of the Court of Exchequer for the recovery of any debt due to the Crown.

Warrant of commitment.—By *sect. 90*, in default of sufficient goods to satisfy the penalty and costs, then, on a return to that effect in writing made by the officer to the persons by whom the warrant shall have been granted, or to any one justice of the peace within whose jurisdiction the same shall have been issued, such persons or justice may grant a warrant to any officer of Excise to arrest and convey such person to the common gaol or house of correction within his or their jurisdiction, there to remain until satisfaction be made of such judgment, or until he shall be ordered by the Commissioners of Excise to be discharged.

Supplementary Warrant of Distress.—But by *sect. 91*, where any goods belonging to such person shall be found after the granting of such warrant of commitment, the persons by whom such warrant shall have been granted, or any one justice in whose jurisdiction any such goods shall be found, may, notwithstanding the granting of the warrant of arrest, grant a fresh warrant to any officer of Excise to levy upon the goods so found any penalty and costs for which the former levy warrant may have been granted, or so much thereof as may not have been before paid; and, upon payment and satisfaction thereof, the party shall be forthwith liberated out of custody.

Power to back Warrants.—By *sect. 92*, where any warrant cannot be executed, by reason that sufficient distress, or that the party,

cannot be found within the limits of the jurisdiction of the justice in which such warrant shall have been issued, then any justice for any other county or place may indorse his name upon the warrant, which shall be a sufficient authority to the officer to execute the same in such other county. And the justice so indorsing the warrant is indemnified from any action.

Application of penalties.—By 7 & 8 Geo. 4, c. 53, s. 103, all penalties and forfeitures, except where special directions are given, are to be distributed, one moiety to the Crown, and the other to the officer of Excise, or the person who shall discover, inform, or sue for the same.

Complaints as to Overcharge.—By 4 & 5 Will. 4, c. 51, s. 27, upon complaint of any overcharge made by an officer of Excise, or of any overpayment made by any person, within twelve calendar months next after the making of such overcharge or overpayment,—and also, where any person shall be entitled to return of any duty, upon the like complaint by such person within the time in that behalf limited by law for exhibiting such complaint,—the Commissioners of Excise, or two justices out of the limits of the chief office, are authorized to adjudge and determine such complaints; and the Commissioners are required to repay or to allow to the complainant so much money as shall be specified in such judgment as overcharged, or overpaid, or to be returned. No such complaint shall be heard before any justice, unless a notice in writing of the time and place of hearing shall be given to the collector or supervisor of Excise, in whose district the subject-matter of complaint shall have arisen, eight days at least before the hearing; which notice must contain the exact particulars of the overcharge, &c., as to sums and dates, &c. The payment of any duty is not to be delayed by reason of any complaint of overcharge being pending.

By *sect. 79*, no *certiorari* is allowed to remove any proceedings.

Expenses of Prosecutor.

And see **Costs.**

BY 7 Geo. 4, c. 64, s. 32, in case of the allowance of the expenses of a prosecution for felony by the court before which the offender shall be tried, the amount of the expenses of attending before the examining magistrate, and the compensation for trouble and loss of

time therein, shall be ascertained by the certificate of such magistrate granted before the trial or attendance in court, if such magistrate shall think fit to grant the same.

Explosive Substances—See Maiming.

Factors—See Embezzlement.

Factories.

PERSONS under eighteen.]—By 3 & 4 Will. 4, c. 103, persons under eighteen years of age are not allowed to work in the night, viz. between half-past eight in the evening, and half-past five in the morning, except as thereafter provided, in or about any *cotton, woollen, worsted, hemp, flax, tow, linen, or silk* mill or factory, wherein steam or water, or any other mechanical power, is used to propel or work the machinery, either in scutching, carding, roving, spinning, piecing, twisting, winding, throwing, doubling, netting, making thread, dressing or weaving of cotton, wool, worsted, hemp, flax, tow, or silk, either separately or mixed. But the act is not to extend to the working of any steam or other engine, water-wheel, or other power, in or belonging to any mill or building, or machinery, when used in that part of the process or work called fulling, roughing, or boiling of woollens, nor to any apprentices or other persons employed therein, nor to the labour of young persons above thirteen years of age, when employed in packing goods in any warehouse or place attached to any mill, and not used for any manufacturing process, nor to any mill or factory used solely for the manufacturing of lace.

By *sect. 2*, persons under eighteen shall not be employed in any such mill or factory in such description of work more than twelve hours in any one day, nor more than sixty-nine hours in any one week, except as thereafter provided.

Provisions for the loss of time.]—By *sect. 3*, if, at any time, in any such mill, &c. situated upon any stream of water, time shall be lost, in consequence of the want of a due supply, or by reason of its being impounded in higher reservoirs, then the occupier of the mill, &c. may extend the time of labour at the rate of three hours per week,

until such lost time shall have been made good; such time to be worked between the hours of five o'clock in the morning and nine o'clock in the evening. But no time is to be recoverable, after it has been lost six calendar months.

And by *sect. 4*, when any extraordinary accident shall happen to the steam-engine, water-wheel, weirs, or watercourses, main shafting, main gearing, or gas apparatus of any such mill, &c. by which not less than three hours labour at any one time shall be lost, then such time may be worked up at the rate of one hour a day, in addition to the aforesaid and after restricted hours of labour, for the twelve following working days.

By *sect. 5*, also, when time is lost, from the power of water-wheels being interrupted during periods of drought and floods, the occupier may extend the hours between which persons under eighteen are allowed to work, viz. from five o'clock in the morning till nine in the evening, as before limited, to such period as may be necessary to prevent the loss of time. But no child or young person within the respective ages prescribed by the act shall be actually employed a greater number of hours within the twenty-four hours of any one day than the act declares to be lawful; and no child under thirteen shall be employed after nine o'clock in the evening, nor before the hour of five in the morning.

Time for Meals.—By *sect. 6*, there shall be allowed every day not less than one hour and a half for meals to every such person restricted to the performance of twelve hours work daily.

Children under nine.—By *sect. 7* it is declared to be unlawful to employ in any factory or mill, except in silk-mills, any child under nine years of age.

Children under thirteen.—By *sect. 8*, it is declared to be unlawful to employ, keep, or allow to remain in any factory or mill for a longer time than forty-eight hours in any one week, nor for a longer time than nine hours in any one day, except as therein provided, any child who shall not have completed thirteen years of age, except in silk, where they may be allowed to work ten hours per day. But by *sect. 10*, if any such child is employed less than the nine hours in one day, he may be employed in any other factory for the residue of the nine hours, provided such employment does not increase the labour to more than nine hours in any one day, or to more than forty-eight hours in any one week.

Holidays.—By *sect. 9*, all the children are entitled to a whole

holiday on Christmas Day and Good Friday, and to not fewer than eight half holidays besides in every year.

Surgeon's Certificate.—By sects. 11, 12, and 13, no person is to employ any child under thirteen, without the certificate of a surgeon or physician certifying the child to be of the ordinary strength and appearance of a child of the age of nine years, which certificate must, within three months of its date, be countersigned by some inspector or justice.

Children between thirteen and eighteen.—By sect. 14, it is unlawful to employ any person between thirteen and eighteen for more than nine hours in any day, nor between nine in the evening and five in the morning, without first requiring and receiving from such person a certificate in proof that such person is above the age of thirteen. But by sect. 15, the penalty afterwards imposed on such person not receiving a certificate is not to be levied, if it shall appear to the satisfaction of the inspector or justice, without such certificate, that such person was at the time of the alleged offence above the age of thirteen.

By sect. 16, if any inspector or justice shall refuse to countersign any such certificate, he must state in writing his reasons for such refusal; and the parents of such child may thereupon take the certificate to the petty sessions, which are to decide upon the validity of such refusal, free of all charge.

Inspectors.—Sect. 17 provides for the appointment of four inspectors of factories where young persons under eighteen years of age are employed, who are empowered to enter any factory, and any school belonging thereto, at all times and seasons, by day or by night, when such factories are at work, and to examine therein the children and any other person employed therein, and to make inquiry respecting their condition, employment, and education; and they are empowered to call to their aid such persons as they may choose, and to require any person to give evidence on oath upon such examination and inquiry. By sects. 18 and 19 the duties and authority of the inspectors are more particularly described. And by sect. 33, the inspector has the same powers, authority, and jurisdiction over constables and peace officers, as regards the execution of the provisions of the act, as may by law be exercised by justices of the peace.

Schools.—By sect. 20, every child restricted to forty-eight hours of labour per week shall attend some school to be chosen by its

parents or guardians, or the inspector. The employer of the child may be ordered by the inspector to deduct from the weekly wages of the child one penny in every shilling to pay for its schooling, and to pay it according to the inspector's order.

By *sect. 21* it is declared unlawful to employ any such child, unless the child shall weekly give to the factory master or proprietor a schoolmaster's ticket or voucher, certifying that the child has for two hours at least for six days of the week next preceding attended his school, except in case of sickness, or other cause allowed by the inspector, or by any justice in his absence. And by *sect. 22*, whenever it shall appear to the inspector that a new or additional school is necessary, he is authorized to procure the establishment of such schools. By *sect. 23*, the inspector may disallow the order for the payment of the schoolmaster or schoolmistress, if he thinks them incompetent.

Allowing Children to remain in Factories more than nine hours.]—By *sect. 24*, if any child restricted to the performance of nine hours of day labour shall be allowed to remain on the premises of any factory or mill longer than nine hours during any one day, or for any longer time than the residue of such nine hours, in case the child has been previously employed for a shorter time in any other factory, the occupier of such factory or mill shall, without any evidence of the employment of the child, be liable to the same penalty as for employing the child for such longer period. But no place, yard, or play-ground open to the public view is to be considered part of the premises on which the children are not allowed to remain; nor any school room attached to such factory or mill, or any waiting room, or those parts of the premises where no machinery is used, and which shall at all times be open to the inspection of any mill-warden or peace officer.

Notice of the Regulations.]—By *sect. 25*, notice of any general order or regulation applying to more than one mill or factory made by any inspector, if published for two successive weeks in one or more newspapers published in the town, place, or county, where any such mill or factory is situate, shall, at the end of seven days after the second publication thereof, have the same effect in attaching a responsibility upon any offender against such order or regulation, as a notice personally served upon such offender, but not to be to the exclusion of any special notice which the inspector may deem expedient.

Whitewashing, &c.—By *sect. 26*, the interior walls and ceilings of every factory must be *whitewashed* once a year.

By *sect. 27*, an abstract of the act, and a copy of such regulations as the inspector may direct, must be hung up in a conspicuous part of every factory.

Forgery of Certificates.—By *sect. 28*, if any person shall give, sign, countersign, endorse, or in any manner give currency to, any false certificate, knowing it to be untrue, or shall forge any certificate, or any signature or endorsement to it, or shall knowingly and wilfully give false testimony upon any point material to any certificate of any inspector or schoolmaster, he is guilty of a misdemeanor, and shall, on conviction before any inspector or justice, be liable to imprisonment not exceeding two months in the house of correction.

Penalty on Parents contravening the provisions of the Act.—By *sect. 29*, in case of the employment of any child contrary to the provisions of the act, or for a longer time than is allowed, or without a due compliance with the provisions of the act touching the education of children, or the certificates of surgeons or magistrates, the parents of the child, or any person having any benefit from its wages, shall be liable to a penalty of 20s., unless it shall appear to the satisfaction of the justice or inspector, that such employment was without the wilful default of the parents.

Liability of Servants and Agents of Factory Owners.—By *sect. 30*, if any offence shall be committed, for which the master of any factory is legally responsible, and it shall appear to the satisfaction of any justice or inspector, that the same has been committed without the knowledge of the master, the inspector or justice may summon such agent or servant or workman before him to answer for such offence, and such agent, &c. is liable to the penalty for such offence, in lieu of the master.

Penalty on Masters for offending against the Act.—By *sect. 31*, if any employer of children in any factory or mill shall by himself, or his servants or workmen, offend against any of the provisions of the act, or any order or regulation of any inspector, he is liable to a penalty not exceeding 20l., nor less than 1l., at the discretion of the inspector or justice. But if it shall appear that such offence was not wilful, nor grossly negligent, the inspector or justice may mitigate the penalty below 1l.

Penalty for obstructing Inspector.—By *sect. 32*, if any person

shall knowingly and wilfully obstruct any inspector in the execution of any of the powers entrusted to him by the act, he is liable to a penalty not exceeding 10*l*.

Recovery of Penalties.—By *sect. 34*, all proceedings for the enforcement of any penalty may be had before any inspector or justice, who may, on summary conviction of the party, adjudge that he shall pay the penalty immediately or within a given period, to be levied by distress in case of default, for want of which the offender may be imprisoned in the common gaol not exceeding one calendar month when the sum to be paid shall not exceed 5*l*., or not exceeding two calendar months in any other case (*z*).

When Complaints to be preferred.—By *sect. 35*, all complaints must be preferred at or before the time of the visit duly notified of the inspector next after the commission of the offence; and written notice of the intention to prefer the complaint must be given within fourteen days after the commission of the offence to the party complained against. And no more than one penalty for a repetition of the same offence is recoverable, except after the service of the written notice.

Proceedings against Partners.—By *sect. 36*, it is not necessary to set forth the name of every partner in a summons or warrant, but merely the name of the ostensible occupier, or title of the firm.

Service of Summons.—By *sect. 37*, the summons or warrant may be served on any occupier, principal manager, conductor, or agent of any mill or factory.

Authority to summon Witnesses.—By *sect. 38*, any inspector or justice, upon any complaint, or any investigation without complaint, may administer an oath to any witness, and summon him to appear and give evidence, or may order him to be brought before him by any constable or peace officer. In default of his appearance, or if he shall resist the officer, or shall not submit to be examined, such inspector or justice, by warrant under his hand and seal, may commit him to the county prison, or prison of the place where the offence was committed, not exceeding two calendar months. But by *sect. 39*, except in the case of resistance to any constable, the inspector or justice may discharge the offender from prison, if he shall give a satisfactory excuse for his non-appearance, or shall afterwards submit himself to be examined.

(s) See *post*, *sect. 41*.

Convictions to be filed, &c.—By *sect. 40*, every conviction may be in the form given in the schedule, and must be returned to the next quarter sessions, and no conviction is to be deemed illegal for any mere informality.

Commitment for want of Distress.—By *sect. 41*, if any person after conviction shall neglect or refuse to pay the penalty, the inspector or magistrate may issue a warrant of distress; and in default of any distress the inspector or magistrate may, upon the certificate of the constable, commit the offender to the house of correction or common gaol not exceeding two months (*a*). The warrant of distress, commitment, and certificate may be in the forms given by the schedule.

Appeal and Certiorari.—By *sect. 42*, there is no appeal, except in the case of a conviction for the forgery of any certificates or other documents required by the act, nor is any conviction, except in the case last mentioned, removable by *certiorari*.

Application of Penalties.—By *sect. 43*, any justice or inspector by whom any complaint is determined, may give to the complainant one half of the penalty, together with all costs; and the remainder of the penalty, or the whole, if he shall think fit, may be applied for the benefit of any factory school. Only one penalty is recoverable for any one description of offence from any one person for any one day. It is not necessary for the complainant to name in any summons the township where the offence is committed, but merely the name of the parish.

Sittings of Inspectors.—By *sect. 44*, the inspector may order any constable to provide a convenient place for holding any sitting; the expense of which is to be defrayed in the manner and proportions, and by the persons, therein appointed for the payment of any special remuneration to any constable (*b*).

Reports of Inspectors.—By *sect. 45*, the inspectors are to make reports twice in every year to the Secretary of State; and they are also required twice at least in every year to meet and confer together respecting their several proceedings.

(*a*) This appears to be a very unnecessary enactment, after a provision on the same subject contained in the 34th section.

(*b*) The 19th section declares that it shall be lawful for any inspector to allow

a special recompense to a constable or peace officer for any continuous service; but in what manner or proportions, or out of what fund, this recompense is to be paid, nowhere appears.

Exceptions to the Act.—By sect. 47, the act does not apply to mechanics, artizans, or labourers under the prescribed ages working only in repairing the machinery or premises.

1. Form of Conviction.

County of — [or “Town of —”] } Be it remembered, that on the — day of
to wit. } —, in the year —, A. B. [*describe the offender*] was upon the complaint of C. D. [or “upon the view of C. D., one of Her Majesty’s inspectors of factories,”] convicted before E. F., one of her Majesty’s inspectors, [or “justices of the peace of and for &c.” *as the case may be,*] in pursuance of an act passed in the fourth year of the reign of his Majesty King William the Fourth for [*describe the offence.*] Given under my hand and seal the day and year above mentioned.

2. Warrant to distrain for Forfeiture.

County of —, }
to wit. } To the constable &c.

Whereas A. B. of — in the said county is this day convicted before me C. D., one of her Majesty’s inspectors of factories [or “justices of the peace in and for the said county,”] upon the oath of a credible witness [or “upon my own view,” *as the case may be*] for that he the said A. B. hath [*here set forth the offence describing it particularly in the words of the statute or rule as near as can be*] contrary to the statute [or “rule,” *if the offence is against some rule or regulation or order of an inspector,*] in that case made and provided, by reason whereof the said A. B. is adjudged to have forfeited the sum of £—, to be distributed as hereinafter mentioned: These are therefore in her Majesty’s name to command you to levy the said sum of £— by distress of the goods and chattels of him the said A. B.; and if within the space of four days next after such distress by you taken, the said sum of £—, together with the reasonable charges of taking and keeping the same, shall not be paid, that then you do sell the said goods and chattels by you so distrained, and out of the money arising by such sale that you do pay [*according to the award of the justice*], returning the overplus on demand to him the said A. B., the reasonable charges of taking, keeping and selling the said distress being first deducted; and if sufficient distress cannot be found of the goods and chattels of the said A. B. whereon to levy the said sum of £—, that then you certify the same to me, together with this warrant. Given under my hand and seal the — day of —, 1842. C. D.

3. Return of Constable upon Warrant of Distress, when no Effects.

I, A. B., constable of — in the county of —, do hereby certify and make oath, that by virtue of this warrant I have made diligent search for the goods of the within-named A. O., and that I can find no sufficient goods whereon to levy the same. As witness my hand the — day of —, 1842. A. B.

Sworn before me the day and year above-mentioned.

J. P.

4. *Commitment for want of Distress.*

County of —, } To the constable of — in the county of —, and to the keeper
to wit. } of the common gaol [or "house of correction"] in the said county.

Whereas A. B. of — in the said county, was on the — day of —, convicted before me C. D., esquire, one of her Majesty's justices of the peace in and for the said county [or "inspector of factories," *as the case may be*] upon the oath of a credible witness [or "upon my own view," *as the case may be*] for that he [*here set forth the offence*] contrary to the statute made in the — year of the reign of his Majesty King William the Fourth for [*according to the title of the act, or* "contrary to a certain rule or order or regulation of her Majesty's inspectors of factories,"] and the said A. B. hath by reason thereof been adjudged to forfeit and pay the sum of £—; and whereas on the — day of —, in the year aforesaid, I did issue my warrant to the constable of — to levy the said sum of £— by distress and sale of the goods and chattels of him the said A. B., and to distribute the same as in the said warrant was mentioned; and whereas it duly appears to me, on the oath of the said constable, that he hath used his best endeavours to levy the said sum on the goods and chattels of the said A. B., but that no sufficient distress can be had whereon to levy the same: These are therefore to command you the said constable of — aforesaid to apprehend the said A. B., and him safely to convey to the common gaol [or "house of correction"] at — in the said county, and there deliver him to the keeper thereof together with this precept: And I do also command you the said keeper to receive and keep in your custody the said A. B. for the space of —, unless the said sum shall be sooner paid, pursuant to the said conviction and warrant; and for so doing this shall be your sufficient warrant. Given under my hand and seal the — day of —, 1842.

C. D.

Fairs.

BY 2 & 3 Vict. c. 47, s. 38, the business and amusements of all fairs holden within the metropolitan police district must cease at the hour of eleven in the evening, and not begin earlier than the hour of six in the morning. And if any house, room, booth, standing, tent, caravan, waggon, or other place, shall, during the continuance of such fair, be open within those hours, for any purpose of business or amusement in the place where such fair shall be holden, any constable may take into custody the person having the care or management thereof, and also every person being therein, who shall not quit the same forthwith upon being bidden by such constable so to do; and the person so then having the care or management of any such house, &c. shall be liable to a penalty not more than 5*l.*; and every person convicted of not quitting the same upon being bidden by the constable, to a penalty not more than 40*s.*

By *sect. 39*, if it shall appear to the commissioners of police, that any such fair has been holden without lawful authority, or that any fair lawfully holden has been holden for a longer period than is so

warranted, the commissioners may direct one of the superintendents belonging to the police force to summon the owner or occupier of the ground upon which the fair is holden to appear before a magistrate, not less than eight days after the service of the summons, to show his right and title to hold such fair, or to hold it beyond a given period. If the owner or occupier shall not attend the summons, or shall not show to the magistrate sufficient cause to believe that such fair has been lawfully holden for the whole period during which the same has been usually holden, the magistrate shall declare in writing such fair to be unlawful, either altogether, or beyond a stated period, as the case may be; and the commissioners shall give notice of such declaration by causing copies thereof to be affixed on the parish church, and on other public places in and near the ground where such fair has been usually holden. If, after such notices have been affixed for the space of eight days, any attempt shall be made to hold such fair contrary to the declaration of the magistrate, the commissioners may direct any constable to remove every booth, standing, and tent, and every carriage of whatever kind conveyed to or being upon the ground for the purpose of holding or continuing such fair, and to take into custody every person erecting, pitching, or fixing, or assisting to erect, pitch, or fix any such booth, standing, or tent, and every person driving, accompanying, or conveyed in every such carriage, and every person resorting to such ground with any show or instrument of gambling or amusement; and every person convicted before a magistrate of any of such last mentioned offences is liable to a penalty not more than 10*l*.

By *sect. 40*, if the owner or occupier of the ground, when summoned before the magistrate, shall enter into a recognizance in 200*l*., with condition to appear in the Court of Queen's Bench on the first day of the then next term, and to answer to any information of the attorney general, and to abide the judgment of the court thereon, and to pay such costs as may be awarded, then, notwithstanding the magistrate may have declared the fair to be unlawful, the commissioners of police shall forbear from taking any measures thereon, until judgment shall be given by the court against the right and title to such fair. The magistrate must transmit the recognizance to the Secretary of State, to the end that it may be filed in the said court, and such directions given thereon as to the Secretary of State may seem fit.

For the proceedings before the magistrate, as to the recovery and application of the penalties, see *post*, *Metropolitan Police*.

False Personation.And see **Forgery.**

OF Stockholders.]—By 11 Geo. 4 & 1 Will. 4, c. 66, s. 6, if any person shall falsely and deceitfully personate any owner of any share or interest, or any dividend, in any public fund transferable at the Bank of England, or at the South Sea House, or of or in the capital stock of any body corporate, company, or society, established by charter or act of parliament, and thereby transfer such share or interest, or thereby receive any money due to such owner, as if such person were the true and lawful owner; *Felony; Death.* But the 7 Will. 4 & 1 Vict. c. 84, s. 1, abolishes the capital punishment and substitutes that of *Transportation for life, or not less than seven years; or Imprisonment not exceeding four years, nor less than two.*

By sect. 7, if any person shall falsely and deceitfully personate, &c. and shall thereby *endeavour* to transfer any such share or interest, or thereby *endeavour* to receive any money due to any such owner; *Felony*, punishable as above.

Of Life Annuitants.]—By 2 & 3 Will. 4, c. 59, s. 19, if any person shall wilfully, falsely, and deceitfully personate any true and real nominee of any life annuity; *Felony*, punishable as above.

Of Soldiers and Seamen.]—By 5 Geo. 4, c. 107, s. 5, whosoever shall willingly and knowingly personate, or falsely assume the name or character of any officer, soldier, seaman, marine, or other person entitled to any wages, pay, pension, prize-money, or other allowance of money, for services done in the army or navy; or shall personate or falsely assume the name or character of the executor or administrator, wife, relation, or creditor of any such person, in order fraudulently to receive any such wages or other allowances due or supposed to be due for or on account of the services of any such officer or soldier, seaman or marine, or other person; *Transportation for life, or not less than seven years; or Imprisonment, with or without hard labour, not exceeding seven years.*

By 7 Geo. 4, c. 16, s. 38, if any person shall willingly and knowingly personate or falsely assume the name or character, or procure any other to personate &c., of any officer, non-commissioned officer, soldier, or other person, entitled or supposed to be entitled to any pension, wages, pay, grant, or other allowance of money, prize money, or relief, due or payable, or supposed to be due, &c. for or on account of any service done or supposed to be done by him in his

Majesty's army, or other military service; or shall personate, or falsely assume the name or character of, the executor or administrator, wife, relation, or creditor of any such officer &c., in order fraudulently to receive any pension, &c.; *Felony; Transportation for life, or such term of years as the court shall adjudge.*

The subsequent statute of 11 Geo. 4 & 1 Will. 4, c. 20, is confined to the *navy* and the *marines*. By *sect. 84* of this statute, if any person shall falsely and deceitfully personate any officer or seaman, or officer of marines, or marine, or the wife, widow, or relation, executor, administrator, or creditor of any such officer, seaman, or marine, or any person entitled to any allowance from the compassionate fund of the navy, in order to receive any wages, pay, half pay, prize money, bounty money, pension, or any part thereof, gratuity, or other allowance, for money due or payable, or supposed to be due or payable, to any such officer, seaman, &c. with intent to defraud any person whatsoever; *Felony; Transportation for life, or not less than seven years; or Imprisonment, not exceeding four years, nor less than two.*

By 2 & 3 Will. 4, c. 53, s. 49, which is confined to *army prize money*, if any person shall knowingly and willingly personate or falsely assume the name or character of any officer, soldier, or other person, entitled, or supposed to be entitled, to any prize money, grant, bounty money, share, or other allowance of money due or payable &c., or the name or character of the executor, wife, widow, &c.; in order to receive any prize money, &c.; *Felony; Transportation for life, or not less than seven years.*

Note.—The three last enactments seem to have been wholly unnecessary, after the comprehensive one of the 5 Geo. 4, c. 107, s. 5.

Personating bail, &c.—By 11 Geo. 4 & 1 Will. 4, c. 66, s. 11, if any person shall, before any court, judge, or other person lawfully authorized, acknowledge any recognizance or bail in the name of any other person not privy or consenting to the same, or any fine, recovery, *cognovit actionem*, or judgment, or any deed to be enrolled; *Felony; Transportation for life, or not less than seven years; or Imprisonment, not more than four years, nor less than two.*

False Pretences.

BY 7 & 8 Geo. 4, c. 29, s. 53, if any person shall by any false pretence obtain from any other person any chattel, money, or valuable

security, with intent to cheat or defraud any person of the same; *Misdemeanor; Transportation for seven years; or Fine or Imprisonment, or both.*

For giving *false characters* to servants, see *post, Servants.*

For *false representations* of soldiers, or fraudulently enlisting, see *post, Soldiers.*

For using *false weights and measures*, see *Weights and Measures.*

Warrant on 7 & 8 Geo. 4, c. 29, s. 53, to apprehend an offender for obtaining Goods under false pretences.

County of } To the constable of —, in the county of —
Kent. }

Whereas complaint hath been made unto me, J. P., esq., one of her Majesty's justices of the peace in and for the said county, upon the oath of A. B. of —, that on the — day of —, C. D. did knowingly, unlawfully, and designedly, by false pretences then and there made by him, that is to say, by [*here state shortly the False pretences*], obtain certain goods and chattels, to wit, &c., —, the property of the said A. B., of and from the said A. B., with intent then and there to cheat and defraud the said A. B. of the same, contrary to the statute in that case made and provided: These are therefore, in her Majesty's name, to command you upon sight hereof forthwith to apprehend and bring the said C. D. before me to answer the said complaint, and further to be dealt with according to law. Given under my hand and seal, this — day of —, A. D. 1842.

FEES.

BY 26 Geo. 2, c. 14, s. 1, the justices of the peace in their respective quarter sessions assembled, were directed to settle a table of fees, to be laid before the judges at the next assizes, who were to make such alterations as they should think reasonable; and the sessions are also empowered from time to time to make any other table of fees to be taken, instead of the fees contained in the table which shall have been ratified and confirmed by the judges of assize; and after the same shall have been approved by the justices at the next succeeding quarter sessions, it must be laid in like manner before the judges at the next assizes for their approval.

By *sect. 2*, if any justice's clerk, after three months from the time that such table of fees shall be made and ratified, shall demand or receive any other or greater fee, he is liable to a penalty of 20*l.*, to be sued for in an action of debt.

By *sect. 3*, the tables of fees are to be deposited with the respective clerks of the peace, who are required to cause copies of such tables to be placed and kept constantly in a conspicuous part of the room or place where the quarter sessions are held, under the penalty of 10*l.*, to be recovered by action of debt.

By *sect. 4*, all actions must be brought before the end of three months after the offence committed.

By 27 Geo. 2, c. 16, s. 4, in the county of *Middlesex*, the like table is to be confirmed by the two Lords Chief Justices and the Lord Chief Baron, or any two of them.

A justice of the peace is bound by his oath of office "to take nothing for the office of justice of the peace to be done, but of the King, and fees accustomed, and costs limited by statute."

And see further *Costs*.

Fences.

STEALING them.—By 7 & 8 Geo. 4, c. 29, s. 40, if any person shall steal, or shall cut, break, or throw down, with intent to steal, any part of any *live or dead fence, or any wooden post, pale, or rail, set up or used as a fence, or any stile or gate*, or any part thereof respectively, the offender, on conviction before one justice, is liable to forfeit, besides the value of the articles stolen, or the amount of the injury done, any sum not exceeding 5*l*. For a second offence, he may be committed to prison to hard labour, not exceeding twelve calendar months; and if convicted before *two* justices, and the offender is a male, he may be ordered to be once or twice publicly or privately whipped, after four days from the conviction.

Having in possession.—By *sect. 41*, if the whole, or any part of any *live or dead fence, &c.*, being of the value of 2*s*. at the least, shall, by virtue of a search warrant, be *found in the possession* of any person, or on his premises with his knowledge, and such person being carried before a justice shall not satisfy the justice that he came lawfully by the same, he shall, on conviction, forfeit, over and above the value of the article so found, any sum not exceeding 2*l*.

For the proceedings on summary conviction, see *ante*, *Detr.*

Maliciously destroying.—By 7 & 8 Geo. 4, c. 30, s. 23, if any person shall unlawfully and maliciously cut, break, throw down, or in anywise destroy, any *fence of any description whatsoever, or any wall, stile, or gate*, or any part thereof respectively; he shall, on conviction before a justice, forfeit for the first offence, over and above the amount of the injury done, not exceeding 5*l*. For a *second* offence, he may be committed to hard labour, not exceeding twelve calendar months, and if the conviction takes place before *two* justices,

they may order the offender to be whipped (if a male) after four days from the conviction.

For the proceedings on summary conviction, and the general provisions of this last statute, see *Mischief*.

Fern—Setting fire to, see *Arson*.

Fines.

BY 3 Geo. 4, c. 46, s. 2, all fines, issues, amerciaments, forfeited recognizances, sum or sums of money paid or to be paid in lieu or satisfaction of them or any of them, (except the same be by any act of parliament otherwise appropriated), which shall be set, imposed, lost, or forfeited before any justice, are required to be certified by him to the clerk of the peace of the county in writing, containing the names and residences, trade, profession, or calling of the parties, the amount of the sum forfeited, and the cause of each forfeiture, signed by the justice, on or before the ensuing general or quarter sessions.

Fire.

FOR wilfully setting fire to any house, &c. see *Arson*.

By the 14 Geo. 3, c. 78, for the regulation of buildings within the metropolis, it is provided by *sect. 74*, that the churchwardens of every parish, and the overseers of every place not having any churchwarden, within the cities of *London* and *Westminster*, and the liberties thereof, and the *weekly bills of mortality*, and the parishes of *St. Marylebone*, *Paddington*, *St. Pancras*, and *St. Luke*, *Chelsea*, shall make, place, and fix at the charge of the parish or place, upon the mains and pipes belonging to any waterworks, so many *stopblocks of wood with a wood plug*, or so many *firecocks*, to go into each main or pipe, and to be placed at such distance in every street or place, as such churchwardens or overseers shall direct. The top of every such stopblock or firecock must be even with the pavement, to the intent that they may, upon occasion of any fire, be opened to let out the water, without loss of time in digging down to the pipes. A mark is required to be fixed on the front of any house over against or nearest to the place where such stopblock, plug, or firecock is placed, and an instrument or key must be kept in every such house to open the stopblock, plug, or firecock, as well as a pipe for the water to come thereout. The stopblocks and firecocks are

to be kept in repair at the charge of the parish, and the plugs by the owners of the mains and pipes.

Parishes required to keep Engines and Ladders.—By sect. 75, every parish shall have and keep in good order and repair, and in some known and public place, a *large engine*, and also a *hand engine*, to throw up water for the extinguishing of fires; and also shall provide, keep, and maintain one leather pipe at least, with a socket of the same size as the plug or firecock, and a stand-cock or suction-pipe, to the intent the socket may be put into the pipe to convey the water without loss, and without the help of buckets, into the engine; and shall also have and keep in some known and public place three or more proper ladders of one, two, and three story high, for assisting persons in houses on fire to escape therefrom. In default of pursuing the directions of this and the preceding section, every churchwarden of the parish, and every overseer of a place not having a churchwarden, on conviction before *two justices*, incurs a *penalty of 10l.*, one half of which is to be paid to the informer, and the other half to the district surveyor, to be levied by *distress*.

Rewards to Turncocks and Engine-keepers.—By sect. 76, the *turncock* of the waterworks, the water of which shall first come into the main or pipe where any plug shall be opened at any fire, shall be paid not more than 10s. by the churchwardens or overseers where the fire happens; and the engine-keeper, who first brings a parish engine or other large engine, if in good order and complete, shall be paid not exceeding 30s.; the keeper of the second engine not exceeding 20s.; and the keeper of the third engine not exceeding 10s.; such payments to be made by the churchwardens or overseers, and in default of payment, to be levied by *distress*. But by sect. 77, no such reward shall be paid, without the approbation and direction of the alderman of the ward, or two common councilmen, if the fire happens within the city,—nor elsewhere, without the direction of one justice residing within the parish or place where the fire happens, and if there be no justice resident there, then of one residing in the parish or place near or next adjoining.

Provision as to Chimnies on Fire.—By sect. 78, where any reward shall be paid by any churchwarden or overseer, for or on account of any fire being in a *chimney only*, or first beginning in and occasioned by the taking fire of any chimney only, the occupier of any room to which such chimney belongs, being a lodger or inmate with any tenant, renter, or occupier of the house,—or if such chim-

ney belongs not to any such lodger, then the tenant, renter, or occupier of the house shall reimburse to the churchwarden or overseer the payment by him made, or such part as shall be awarded by the lord mayor or the justice, who are for this purpose empowered to summon the party and all persons fit to give evidence, and examine them upon oath. If the party does not appear, the lord mayor or justice may proceed in his absence. In default of payment of the sum awarded within fourteen days after demand, it may be levied by *distress*.

Punishment of Servants for carelessness.—By *sect. 84*, if any servant, through negligence or carelessness, shall fire, or cause to be fired, any dwellinghouse, or outhouse, or houses, or other buildings, whether within the limits aforesaid or elsewhere within the kingdom of Great Britain, he is liable to pay 100*l.* to the churchwardens or overseers of the parish where the fire shall happen, on conviction before *two justices*, on the oath of *one witness*. This money is to be distributed amongst the sufferers by the fire, as to the churchwardens shall seem just; and in default of payment, the servant is to be committed to the common gaol or house of correction for eighteen months to hard labour.

Duties of Constables.—By *sect. 85*, all constables and beadles are required to repair immediately to the place where any fire shall happen, and to aid and assist in extinguishing it, in causing people to work at the engines, and in preventing goods being stolen; and they are also required to give their utmost assistance to help the inhabitants to remove their goods.

Proceedings.—By *sect. 86*, no action can be maintained against any person in whose premises any fire shall accidentally begin.

By *sect. 87*, no *distress* shall be held unlawful for any defect of form; and by *sect. 88*, the defendant in any action may plead tender of amends, or pay money into court. No *certiorari*, *sect. 95*. Appeal to the next quarter sessions, *sect. 96*; on entering into a recognizance, with two sureties, to try the appeal, *sect. 97*.

By *sect. 98* parishioners are competent witnesses; and by *sect. 99*, all proceedings for any penalty or forfeiture must be commenced within six calendar months after the forfeiture shall have been incurred.

By *sect. 100*, no action can be brought for any thing done in pursuance of the act, until twenty-one days after notice in writing to the

party complained against, nor after three calendar months after the fact committed; in which action the *venue* must be in *London* or *Middlesex*, and the defendant may plead the general issue, and give the special matter in evidence; and if the defendant recovers judgment, he is entitled to treble costs.

Provision as to Turpentine, Pitch, and Tar Manufactories.—By 25 Geo. 3, c. 77, manufacturers of *turpentine, pitch, and tur*, in any part of *England*, are prohibited from manufacturing above the quantity of ten gallons at one time, in any place contiguous to any other building, or nearer than the distance of seventy-five feet. Penalty 100*l.*, recoverable by *action of debt*, within six calendar months after the penalty is incurred.

By 1 & 2 Vict. c. 75, this penalty is declared to extend to the owners or occupiers of any *pitch, tar, or turpentine distillery*, within seventy-five feet from any other building. But in case the other building next adjoining to such distillery be occupied jointly by the same tenant, and that the whole so jointly occupied be seventy-five feet distant from any other building, then the penalty is not to extend to such an occupier.

Firearms.

SELLING Barrels not proved.—By 53 Geo. 3, c. 115, s. 2, every person who shall sell, or cause to be sold, or cause or procure to be used, any barrel for the making, manufacturing, or finishing of any gun, fowling-piece, blunderbuss, pistol, or any other description of firearms, which shall not first have been duly proved, and marked as proved, at some public proof-house established as such by law, is liable to a penalty not exceeding 20*l.*

Using them in the process of Manufacture.—By 55 Geo. 3, c. 59, s. 1, every person who shall use, or begin to use, or cause or procure to be used, or to be begun to be used, by any process, in any progressive state of manufacture in the making, manufacturing, or finishing of any gun, fowling-piece, blunderbuss, pistol, or other description of firearms, usually called small arms, any barrel which shall not have been duly proved, and marked as proved, at some public proof-house established by law, shall forfeit for each barrel not exceeding 20*l.*

Not sending them to be proved.—By sect. 2, every barrel for the

making of any gun, &c. shall be sent immediately from the manufacturers themselves to some proof-house established by law, before the same shall be delivered or sent for sale, or be removed, consigned, or transmitted for sale to any person whatsoever, under the penalty not exceeding 20*l.* for every barrel.

Manufacturers receiving Barrels otherwise than from some Proof-house.—By sect. 3, every person who shall take or receive, or cause or procure, or permit or suffer to be received, any barrel, for the purpose of making or manufacturing, or proper or applicable for the making or manufacturing, of any gun, &c., directly or indirectly from the manufacturer thereof, or from any other person on his behalf, except from or through some proof-house established by law, shall also forfeit for each barrel not exceeding 20*l.*

Proof-master delivering Barrels not proved.—By sect. 4, in case any barrel, sent to the proof-house of the Gunmakers' Company of London to be proved, shall not be received and proved according to law, or shall be delivered or parted with, or permitted to be taken away, which shall not have been proved, and (if found to be proof) properly marked, the person having the charge, care, and management of such proof-house shall forfeit for each barrel 10*s.*

Forging proof marks.—By sect. 6, any person who shall forge or counterfeit, or cause or procure to be forged or counterfeited, or assist or join in so doing, any mark or stamp used at any proof-house for proving and marking barrels, or shall wilfully sell or offer for sale, or use in the making or manufacturing of any gun, &c. any barrel finished, welded, or forged, or in any other progressive state of manufacture, whereon shall be any mark or stamp which shall be forged or counterfeited, in imitation of any mark or stamp used at any proof-house, shall forfeit for every barrel not exceeding 20*l.*

Marking Barrels not proved.—By sect. 7, if any proof-master or other person shall put, place, or strike, or cause or procure to be so done, or act or assist in so doing, any mark or stamp used for proving and marking barrels, on any barrel which shall not have been duly proved, he is liable to a penalty not exceeding 20*l.*

Proceedings for recovery of Penalties.—By sect. 10, offences to be heard and determined by *two justices*, on the oath of one witness, one half the penalty to go to the informer, and the other to the overseers. The justices may direct costs to be paid by any party. The

penalty to be levied by distress, in default of which imprisonment not exceeding six calendar months.

By *sect. 11*, prosecutions must be commenced within six calendar months after the offence. *Sect. 12* gives a general form of conviction, and *sect. 13* an appeal to the next sessions; and by *sect. 15* there is the usual restriction as to actions.

Discharging them in improper Places.—By the 2 & 3 Vict. c. 47, s. 54, every person who, within the limits of the metropolitan police district, shall in any thoroughfare or public place wantonly discharge any firearm, is liable to a penalty not more than 40s.

By *sect. 55*, no person, other than persons acting in obedience to lawful authority, shall discharge any cannon, or other firearms, of greater calibre than a common fowling-piece, within 300 yards of any dwellinghouse within the above district, to the annoyance of any inhabitant thereof. And every person who, after being warned of the annoyance of any inhabitant, shall discharge any such firearm, is liable to a penalty not more than 5*l*.

For the proceedings on summary conviction under this last statute, see *Metropolitan Police*.

Fireworks.

MAKING or selling them.—By 9 & 10 Will. 3, c. 7, s. 1, the making or selling, or exposing to sale, any fireworks, or any implements for making the same, or throwing them, or permitting them to be thrown, from any house into any public highway, is declared to be a common nuisance.

By *sect. 2*, if any person shall make or cause to be made, or give, sell, or offer to sale, any squibs, rockets, serpents, or other fireworks, or any cases, moulds, or other implements for making the same, he is liable, on conviction before *one justice*, on the oaths of *two witnesses*, to a penalty of 5*l*., half to the poor, and half to the prosecutor, to be levied by distress.

Throwing or firing them.—And if any person shall permit any of the same to be cast, thrown, or fired from, out of, or in his house, shop, dwelling, lodging, habitation, or other place thereto belonging, into any public street, highway, road, or passage, or any other house or place, he shall forfeit 20*s*. in like manner.

By *sect. 3*, if any person shall throw, cast, or fire, or be aiding in throwing, &c. the same into any public street, house, shop, river, highway, road, or passage, he shall forfeit 20*s*. in like manner. And

if he shall not immediately on conviction pay the forfeiture, he is to be committed to the house of correction to hard labour, not exceeding one month.

By the Metropolis Police Act, 2 & 3 Vict. c. 74, s. 54, every person who, within the limits of the metropolitan police district, shall in any thoroughfare or public place wantonly make any bonfire, or throw or set fire to any firework, is liable to a penalty not more than 40s.

For the proceedings on summary conviction under this last statute, see *Metropolitan Police*.

Fish and Fisheries.

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1. *Stealing and taking Fish from Ponds, &c.*

STEALING in private Fisheries.]—By 7 & 8 Geo. 4, c. 29, s. 34, if any person shall unlawfully and wilfully take or destroy any fish in any water, which shall run through, or be in, any land adjoining or belonging to the dwellinghouse of any person, such person being the owner of such water, or having a right of fishery therein, he is declared to be guilty of a *misdemeanor*.

And if any person shall unlawfully and wilfully take or destroy, or attempt to take or destroy, any fish in any water not being in such land as above mentioned, but which shall be private property, or in which there shall be any private right of fishery, he is liable, on conviction before a justice, to a penalty not exceeding 5*l.*, over and above the value of the fish.

Angling in the daytime.]—The above enactments are declared not to extend to angling in the daytime. But if any person shall by so angling take or destroy, or attempt to take or destroy, any fish in any such water first mentioned, he is liable, on conviction before a justice, to a penalty not exceeding 5*l.*; and if in any such water as last mentioned, to a penalty not exceeding 2*l.*

If the boundary of any parish or township shall happen to be in, or by the side of, any such water, it is sufficient to prove that the

offence was committed either in the parish or township named in the information, or in any other adjoining.

By *sect. 35*, if any person is found fishing against the provisions of the act, the owner of the ground, water, or fishery, his servants, or any person authorized by him, may demand from the offender any rods, lines, hooks, nets, or other implements for taking or destroying fish, which shall then be in his possession; and, in case they shall not be immediately delivered up, may seize and take the same from him for the use of the owner. But any person angling in the day-time, from whom any implements shall be taken, shall be exempted from any penalty for such angling.

Stealing Oysters.—By *sect. 36*, if any person shall steal any oysters or oyster brood from any oyster bed, laying, or fishery, being the property of any other person, and sufficiently marked out or known as such, he is declared to be guilty of *larceny*.

And if any person shall unlawfully and wilfully use any dredge, or any net, instrument, or engine whatsoever, within the limits of any such oyster fishery, for the purpose of taking oysters or oyster brood, although none shall be actually taken; or shall with any net, instrument, or engine, drag upon the ground or soil of any such fishery; he is declared guilty of a *misdemeanor*, punishable by fine or imprisonment, or both; such fine not to exceed 20*l.*, and the imprisonment not beyond three calendar months.

It is declared sufficient to describe either by name, or otherwise, the bed, laying, or fishery, in which any of the above offences is committed, without stating the parish or township.

But nothing is to prevent any person from catching or fishing for any floating fish, within the limits of any oyster fishery, with any net, instrument, or engine, adapted for taking floating fish only.

For the proceedings on summary conviction under this statute, see title *Dist.*

Destroying dams of Fish Ponds.—By 7 & 8 Geo. 4, c. 30, s. 15, if any person shall unlawfully and maliciously break down or otherwise destroy the dam of any fish pond, or of any water which shall be private property, or in which there shall be any private right of fishery, with intent thereby to take or destroy any of the fish in such pond or water, or so as thereby to cause the loss or destruction of any of the fish; or shall unlawfully and maliciously put any lime, or other noxious material, in such pond or water, with intent to destroy any of the fish therein; or shall unlawfully and maliciously

break down or otherwise destroy the dam of any mill pond; the offender is declared guilty of a *Misdemeanor, punishable with Transportation for seven years; or Imprisonment not exceeding two years, with or without whipping.*

1. *Conviction under 7 & 8 Geo. 4, c. 29, s. 34, for taking or destroying Fish in Water which is private property, but not running through or being in any Land adjoining or belonging to the Dwelling-house of the Owner (c).*

Hampshire, } Be it remembered, that on the — day of —, in the year of our
to wit. } Lord —, at — in the county aforesaid, A. B. is convicted before
me, J. P., esquire, one of her Majesty's justices of the peace for the said county, for
that he the said A. B. on the — day of —, in the year aforesaid, at the parish of
—, in the county aforesaid, in a certain pond of water there situate, being the private
property of C. D., six fish called carp, of the value of 3s., then and there unlawfully
and wilfully, and against the consent of the said C. D. did take and destroy, otherwise
than by angling in the daytime, against the form of the statute in that case made
and provided: Wherefore I the said J. P. do adjudge the said A. B. for his said offence
to forfeit and pay the sum of — pounds, over and above the value of the said carp so
taken and destroyed, and the further sum of 3s., being the value of the said carp, and
also to pay the sum of — shillings for costs; and in default of immediate payment of
the said sums, to be imprisoned at the house of correction at —, in the county aforesaid,
and there kept to hard labour for the space of two calendar months, unless the said
sums shall be sooner paid. And I direct that the said sum of £— shall be paid to
W. F. of — aforesaid, one of the overseers of the poor of the parish in which
the said offence was committed, to be by him applied according to the direction of the
statute in that case made and provided, and that the said sum of 3s. shall be paid to
the said C. D. [unless he shall have been examined in proof of the offence, in which case
say, "shall also be paid to the said W. F., the said C. D. having been examined in
proof of the offence aforesaid, to be by him applied in manner aforesaid."] And I order
that the said sum of — shillings for costs shall be paid to — [the complainant].
Given under my hand and seal the day and year first above written.

2. *Conviction under the same statute, for taking Fish by Angling in the Daytime, in Water running through or being in Land adjoining or belonging to the Dwelling-house of the Owner.*

Hampshire, } Be it remembered, &c. [as before], for that he the said A. B. on the
to wit. } — day of —, in the year aforesaid, about the hour of eight o'clock
in the forenoon of the same day, at the parish of —, in the county aforesaid, in a certain
stream of water then and there running through a certain close adjoining the
dwelling-house of C. D. of the parish aforesaid, in which said stream of water he the
said C. D. had then and there a right of fishery, six fish called trout, of the value of 4s.,
then and there did take and kill, against the form of the statute in that case made and
provided: Wherefore I the said J. P. do adjudge the said A. B. for his said offence to
forfeit and pay the sum of 5l., and also to pay, &c. [as in the last precedent.]

2. Fishing in or near the Sea.

Setting up new Wears.—By 3 Jac. 1, c. 12, s. 2, every person, who shall set up any new wear along the sea shore, or in any haven, harbour, or creek, or within five miles of the mouth thereof, shall, on conviction before one justice, forfeit 10*l.*, half to the King, and half to the informer, to be levied by distress.

Taking Spawn.—By *sect. 2*, every person, who shall willingly take, destroy, or spoil any spawn, fry, or brood of any sea fish, shall forfeit 10*l.* in like manner.

Using improper Nets.—By 1 Geo. 1, stat. 2, c. 18, if any person shall use at sea, on the English coast, any trawl net, drag net, or set net, for catching any fish, (except herrings, pilchards, sprats, or lavidnian), which hath the mesh less than 3 $\frac{1}{4}$ inches from knot to knot, or which hath a false or double bottom, cod, or pouch; or shall put any net upon or behind another, in order to catch or destroy the small fish, which would have passed through any single net of 3 $\frac{1}{2}$ inches mesh, he shall, on conviction (after summons) before one justice, on oath of two witnesses, forfeit the same, and also 20*l.*, half to the informer, and half to the poor, to be levied by distress; in default of which commitment for twelve months; and the nets to be burned.

Taking or selling unsizeable Fish.—By *sect. 7*, if any person shall bring to shore, or expose to sale, or exchange for other goods, any fish less than the following sizes from the eyes to the extent of the tail, viz. *bret* or *turbot*(*d*) 16 inches, *brill* or *pearl* 14, *codling* 12, *whiting* 6, *bass* and *mullet* 12, *sole* 8, *place* or *ilab* 8, *flounder* 7,—he shall forfeit the fish to the poor, and also 20*s.*, half to the informer, and half to the poor, to be levied by distress; in default of which imprisonment to hard labour for six days, or not longer than fourteen, and to be severely whipped.

All prosecutions must be within one month after the offence; and an appeal is given to the next sessions.

3. Fishing in the Thames and Medway.

Court of Lord Mayor and Aldermen may frame regulations.—By 30 Geo. 2, c. 21, s. 1, the Court of Lord Mayor and Aldermen

(*d*) But by 33 Geo. 2, c. 27, s. 11, *bret* or *turbot*, *brill* or *pearl*, although sold under certain conditions, see *post*, under such dimensions, may be taken and *Regulations for sale of Fish.*

may frame such reasonable rules for the governing and regulating all persons who shall fish or dredge in the rivers Thames and Medway, within the jurisdiction of the Lord Mayor as conservator of those rivers, as common fishermen or dredgermen, or otherwise, and for declaration in what manner they shall demean themselves in fishing, and with what manner of nets and engines, and at what times and seasons, and for ascertaining the assize of the several fish to be taken, and for the preservation of the spawn and fry of fish, and for obliging every common fisherman or dredgerman, or other such person who shall fish with a boat, to have his christian and surname, and the name of the parish or place where he dwells, painted in legible and large characters thereon; and to annex reasonable penalties and forfeitures for the breach of such rules, not exceeding 5*l.* for any one offence. The rules so made must be approved of by the Lord Chancellor, the two Lord Chief Justices, and the Lord Chief Baron, or any two of them.

Taking Spawn, or unsizeable Fish.—By *sect. 2*, no person shall wilfully take, destroy, spoil, kill, or expose to sale, or exchange for any goods, matter, or thing, any spawn, fry, or brood of fish, or spatt of oysters, or any unsizeable or unwholesome fish, or fish out of season, or bring such fish on shore for sale, or use or keep any net, engine, or other device whatsoever, which shall be prohibited by such rules of the Lord Mayor and Aldermen, upon pain of forfeiting for every offence such sum as by such rules shall be appointed.

Power to summon Fishermen.—By *sect. 4*, the Court of Lord Mayor and Aldermen may occasionally summon before them twelve of the fishermen to be examined upon oath touching the fish and fishery; who are liable to a penalty of 40*s.* for neglecting to attend or refusing to be examined, leviable by distress, and to be paid to Greenwich Hospital.

Water Bailiff may search Boats.—By *sect. 5*, the water bailiff and his assistants may enter into any fisherman's boat, and seize either there, or on the shore of either river, all spawn, fry, brood of fish, spatt of oysters, and unsizeable, unwholesome, or unseasonable fish, and also all unlawful nets, engines, and instruments, and bring them before the Lord Mayor, or one of the Aldermen,—or before any justice of the peace, if seized out of the jurisdiction of the city,—who may order them to be destroyed.

Penalty for obstructing him.—By *sect. 6*, if any person shall

obstruct or hinder the water bailiff or his assistants in the execution of his duty, he is liable to a penalty of 10*l*.

Lord Mayor and Aldermen may determine Offences.—By *sect. 7*, the Lord Mayor, or one of the Aldermen, or any magistrate, may determine in a summary way any offence contrary to the act, and upon view, or complaint made of any offence, may issue a warrant for the apprehension of the offender, and may also summon witnesses; who (by *sect. 8*) are liable to a penalty not exceeding 5*l*., nor less than 20*s*., for refusing to appear or to be examined.

Penalties on Officers for misconduct.—By *sect. 9*, any officer neglecting his duty is liable to a penalty not exceeding 5*l*.

By *sect. 10*, if the water bailiff, or any of his assistants, shall receive any sum of money, gratuity, or reward whatsoever, to prevent, delay, or hinder any prosecution, or compound for, or wilfully conceal any offence, he is liable to a penalty of 5*l*.

Recovery and application of penalties.—By *sect. 11*, on non-payment of any penalty on conviction, it may be levied by distress, in default of which the offender may be committed for three months; one moiety of all penalties to go to the informer, and the other to Greenwich Hospital. But a right of appeal is given to the Court of Lord Mayor and Aldermen.

By *sect. 12*, a general form of conviction is given; by *sect. 13*, there is no *certiorari*; and by *sect. 16*, there is the usual restriction as to actions.

4. *Salmon Fishery.*

Improperly taking it.—By 13 Ric. 2, stat. 1, c. 19, the rivers *Seine, Wyre, Mersey, Ribble*, and all other waters in Lancashire, shall be put in defence, as to taking of salmon, from *Michaelmas* to *Candlemas*.

By 1 Geo. 1, stat. 2, c. 18, s. 14, if any person shall lay or draw any net, engine, or other device, or wilfully do, or cause any thing to be done in the *Severn, Dee, Wye, Tearne, Were, Tees, Ribble, Mersey, Dun, Air, Ouse, Snaile, Calder, Wharf, Eure, Darwent, or Trent*, whereby the spawn or fry of salmon; or any kepper or shedder salmon, or any salmon not 18 inches or more from the eye to the extent of the middle of the tail, shall be taken and killed or destroyed; or shall make, erect, or set any bank, dam, ledge, or stank, or net, cross the same, whereby the salmon therein may be taken, or hindered from passing up to spawn; or shall, between July 31 and

November 12, (except in the *Ribble*, where they may be taken until September 15,) take, kill, destroy, or wilfully hurt any salmon of any kind or size; or shall, after November 12, yearly fish there for salmon with any net less than $2\frac{1}{2}$ inches in the mesh; he shall, on conviction, in one month, before one justice, on oath of one witness, forfeit 5*l.*, and the fish so taken, and the nets, engines, and devices used in doing the same, half the sum to the informer, and half to the poor, to be levied by distress, in default of which commitment to hard labour for not more than three months, nor less than one, and to suffer such other corporal punishment as the justices shall think fit. The justice shall order the nets, engines, and devices to be destroyed in his presence, and the banks, dams, &c. to be demolished at the charge of the offender.

Sending to London under weight.—By sect. 15, no salmon shall be sent to fishmongers, or their agents, in London, under six pounds weight, on pain that the sender, buyer, or seller, shall, on the like conviction, forfeit 5*l.*, and the fish, half the penalty and fish to the informer, and half to the poor; in default of distress to be committed to hard labour for three months.

By sect. 17, appeal to the next sessions.

Taking it in the Devonshire rivers.—By 43 Geo. 3, c. lxi. s. 1, which relates solely to the rivers *Teign*, *Dart*, and *Plym*, in the county of Devon, the owners and proprietors, and persons legally entitled to fish in those rivers, or in any waters communicating therewith, may, between the 4th March and 4th December within the *Teign*, and between the 15th February and 15th November in the *Dart* and *Plym*, with legal nets, or hooks and lines, take salmon, or salmon kind.

By sect. 2, no person whatsoever shall, in the *Teign* between the 4th December and the 4th March, nor in the *Dart* and *Plym* between the 15th November and the 15th February, take or attempt to take any salmon, or salmon kind, or any of the spawn, brood, or fry of salmon, nor offer to sale or dispose of any fish so taken; and no person shall, either within such periods or otherwise, take or attempt to take or injure any such fish by means of a spear, or other instrument of that nature.

By sect. 3, no sea-trout to be taken between 29th September and the 2nd February, and no fish of any kind to be taken on a Sunday.

By sect. 4, persons offending against the act may be convicted, on the oath of one witness before one justice, in a penalty not less than

40s., nor more than 5*l.*, for a first offence, together with the fish, and all the nets, &c. ; and for a second offence, not less than 40s., nor more than 10*l.*, one half to the informer, and half to the poor ; for want of distress, commitment to hard labour not exceeding six calendar months, nor less than two ; and the justice to order the nets, &c. to be destroyed.

By *sect. 5*, an appeal is given to the next sessions.

By 45 Geo. 3, c. xxxiii. certain other provisions are enacted with respect to the rivers in the county of *Carmarthen*.

Conservators.—By 58 Geo. 3, c. 43, s. 1, the justices at sessions may appoint conservators for the preservation of salmon, and fish of the salmon kind.

Where Sessions may appoint fence days.—By *sect. 2*, where no provision is made by any act then in force for limiting the times when it is lawful to take salmon in any river, the sessions are required, at the request of any person who has given notice in some newspaper circulated within the county of his intention to apply in that behalf, to fix certain days, not exceeding 150 in each year, for each river within their respective counties, to be *fence* days for the several rivers, during which time it shall not be lawful to take, or attempt to take, any salmon, or fish of the salmon kind. The justices are empowered also, at any subsequent sessions, to vary annually the number of days, and the periods at which they shall commence.

Improperly taking or destroying.—By *sect. 3*, if any person shall destroy, or endeavour to destroy or injure, any salmon or salmon kind, by laying or using any hot lime, or filth, or material or drug pernicious to fish, or using any water in which any green lint or flax has been steeped, or letting off stagnated water, or any water impregnated with any material or drug pernicious to fish ; or use or employ any such means, or use any fire or light or white object, or lay down any kind of net, engine, or device, or wilfully do or cause to be done any act whatsoever in any river or water, for the destruction of the brood, spawn, or small fry of salmon (angling excepted) ; or if any person shall make, erect, or set any bank, dam, hedge, or stank, or net, or place any fire, light, or any white object, so that the fry or young salmon be prevented from going down from such rivers or waters ; he shall for a first offence forfeit not exceeding 10*l.*, nor less than 5*l.*, and for every subsequent offence not exceeding 15*l.*, nor less than 10*l.*, and all the fish so taken, and the nets, &c. used in taking it.

Taking Spawn or unsizeable or unseasonable Fish.—By sect. 4, no person shall take, kill, or destroy, or knowingly have in his possession, any spawn, fry, or brood of fish, or any unsizeable fish, or any kepper or shedder salmon, being unseasonable salmon commonly called *old salmon*, or any salmon caught in any river during the periods when fishing for salmon is prohibited by law. Any conservator, or other person, may seize the same, with all baskets and packages in which the same shall be found, and deliver the person on whom the same is found to a peace officer, who is required to take the offender with the fish &c. before a justice, and on conviction the offender shall forfeit all such fish &c., together with the baskets and packages in which the same shall have been seized; which shall, by order of the justice, be delivered to the prosecutor; and the offender shall besides forfeit not exceeding 10*l.*, nor less than 5*l.*

Reservation of present modes of taking Fish.—By sect. 5, the provisions of the act are not to affect any net, fishlock, coop, bay, or other work lawfully fixed or used in any arm of the sea, or estuary or mouth of any river, or in or upon any bank, sand, or shore thereof, or near thereto, or in or near any river or other water communicating therewith, or to the present modes of taking fish therein, except those prohibited by the act.

Recovery of penalties.—By sect. 6, the penalties are recoverable before one justice, on the oath of one witness, and if not immediately paid on conviction, the offender is liable to be committed for the period after mentioned; or the justice may grant a warrant of distress. One half the penalty to go to the informer, and the other to the poor. In default of distress, the offender may, for a first offence, be committed to hard labour not exceeding four months, nor less than two; for a second offence, not exceeding eight months, nor less than six; and for any subsequent offence not exceeding twelve, nor less than three months.

Summons and Warrant.—By sect. 7, a justice, on receiving information on oath, may grant a warrant for apprehending an offender, or a summons, and then a warrant, if he disobeys the summons.

Witnesses, &c.—By sect. 8, no owner, farmer, or occupier of, or any person interested in any fishery, or right of fishing, to be deemed an incompetent witness.

By sect. 10, a general form of conviction is directed, which is not to be quashed for want of form, or be removable by *certiorari*.

By *sect. 12*, an *appeal* is given to the next, or next but one, sessions; and by *sect. 13*, there is the usual limitation of actions.

By *sect. 14*, the act is not to affect the provisions of any former act; but by *sect. 11*, persons punished under this act are not to be prosecuted under any other.

1. *Information against a person for preventing the young Salmon from going down a River, on stat. 58 Geo. 3, c. 43, s. 3 (e).*

Kent, } The information and complaint of A. B., of &c., one of the conservators
to wit. } appointed for the preservation of salmon, and fish of the salmon kind, and
the brood, spawn, and fry thereof, within the river —, in the said county, made
before me, J. P., esquire, one of her Majesty's justices of the peace in and for the
said county, on &c., who says, that within six months last past at a place called —,
in a part of the said river —, in the parish of —, one C. D., of &c., did lay down
and place, set and erect, certain engines and devices, namely, wooden bars, the said bars
not being an inch apart from each other, for the destruction of the brood, spawn, and
small fry of salmon in the said river; which said bars so laid down, placed, set up, and
erected, acted and act as a bank, dam, or hedge, so that the young fry or young salmon
were and are thereby prevented from going down from the said river to the sea, contrary
to an act passed in the fifty-eighth year of the reign of his late Majesty King George
the Third, intituled "An Act for preventing the Destruction of the Breed of Salmon,
and Fish of Salmon kind in the Rivers of England," whereby he the said C. D. has
forfeited the sum of 10*l.*, to be distributed as the said act directs; and therefore he the
said A. B. prays that justice may be done in the premises.

Taken before me, the day and year first above mentioned,

A. B.

J. P.

2. *Form of Conviction, directed by sect. 10 of the above statute.*

Kent, } Be it remembered, that on the — day of —, in the year of our
to wit. } Lord 1842, at — in the county aforesaid, A. B. was, upon the complaint
of C. D., convicted before me, [or "us,"] E. F., one [or "two"] of her Majesty's
justices of the peace [as the case may be] for the said county of —, in pursuance of an
act made in the fifty-eighth year of the reign of his late Majesty King George the Third
[insert the title of the act], for that he the said A. B. [state the offence, and if a case in
which different penalties are imposed for repeated offences "this being the first offence,"
"second" or "third offence," as the case may be], and I [or "we"] do hereby adjudge
him ["her" or "them"] to pay and forfeit for the said offence the sum of — of lawful
money of Great Britain, together with the further sum of — for costs of suit and prose-
cution, to the said C. D. Given under my hand and seal [or "our hands and seals,"
as the case may be], at —, in the county of —, the day and year above written.

5. *Provisions as to Fish in general.*

By 33 Geo. 2, c. 27, ss. 13, 15, 16, 17, 18, 19, no person shall take, or knowingly have in his possession, or sell or expose to sale, any spawn, fry, or brood of fish, or any unsizeable fish, or fish out of

season, or any smelt not five inches long. Any person may seize the same, together with the baskets and packages, and charge a peace officer with the offender and fish &c., who shall carry them before a justice, and on conviction the same shall be forfeited and delivered to the prosecutor, and the offender besides forfeit 20s. to be levied by distress, half to the prosecutor, and half to the poor; in default of distress, commitment to hard labour not exceeding three months. Inhabitants of parishes competent witnesses. The justice may mitigate the penalty to one half. Appeal, and general form of conviction.

By 2 Hen. 6, c. 15, no person shall fasten any nets over rivers, to stand continually day and night, on pain of 100s. to the King.

Herring Fisheries.—Many important regulations relating to the herring, pilchard, and other fisheries, are contained in various acts of parliament, to which it must suffice on the present occasion merely to refer, viz. 16 Geo. 3, c. 36; 48 Geo. 3, c. 110; 51 Geo. 3, c. 101; 52 Geo. 3, c. 153; 54 Geo. 3, c. 102; 55 Geo. 3, c. 94; 1 & 2 Geo. 4, c. 79; 5 Geo. 4, c. 64; 7 Geo. 4, c. 34; 11 Geo. 4 & 1 Will. 4, c. 54.

6. *Importing Fish.*

By 1 Geo. 1, c. 18, and 9 Geo. 2, c. 33, no sort of flat fish or fresh fish whatever (except *turbots* and *lobsters*, *eels*, *stock fish*, *anchovies*, *sturgeon*, *botarge* or *carear*) can be legally imported or sold, which were taken by, bought of, or received from any foreigner, (except Protestant strangers inhabiting this kingdom) or out of any strange bottom, under the penalty of 100*l.* by the party offending, and 50*l.* by the master of the vessel, half to the poor, and half to the informer.

By 26 Geo. 3, c. 81, s. 43, if, on complaint made on oath before *two justices* by any officer, it shall appear that he has cause to believe that any fish hath been imported or exposed to sale in the port of London, contrary to the two last mentioned acts, the justices may summon the party accused to appear before them; and in default of his appearance, then on proof of the service of the summons, either personally, or by leaving the same at his usual place of abode whilst on shore, or not being on shore, with some person in the vessel to which he belongs, the justices may by warrant cause him to be brought before them, and thereupon the justices may proceed to hear and determine the complaint.

Recovery of penalties.—By sect. 46, all pecuniary penalties imposed by the 9 Geo. 2, c. 33, may be recovered before *two justices*, on the oath of *one witness*, and the whole of such penalties to go to

the informer, to be levied by distress; in default of which imprisonment for one year.

Distress and Commitment.—By *sect. 47*, offenders, after conviction, may be detained forty-eight hours, if the penalty be not immediately paid, to allow for a return to the warrant of distress; or, by *sect. 48*, where it shall appear to the justices that there are not sufficient goods to answer the penalty, they may commit the party, without issuing a warrant of distress.

By *sect. 49*, security may be given by two sufficient sureties for payment of the penalty within fourteen days from the day of conviction.

By *sect. 50*, an *appeal* is given to the sessions, and by *sect. 52*, no conviction is to be set aside for want of form, nor be removable by *certiorari*.

Witnesses.—By *sect. 44*, the justices may summon witnesses, and in case of non-appearance, they may be apprehended and brought before them. If any witness shall refuse to be sworn or give evidence, or wilfully forswear himself, or prevaricate, the justices may commit him for one year.

By *sect. 45*, in case the party accused cannot be made to appear at the time of the examination of a witness, and the witness cannot be made to attend when the party shall appear, the examination in writing of the witness may be read and made use of against the party accused.

7. Regulations for Sale of, in London and Westminster.

Collector to make Returns to Lord Mayor.—By 33 Geo. 2, c. 27, ss. 6, 7, the clerk of the Coast Office under the collector outward of the port of London is bound to enter the time of the arrival of every fishing vessel at the Nore, and to make returns three times a week to the Lord Mayor of London of the arrival of such vessel, and of the contents of her cargo, under the penalty of 5*l.*, on conviction before one justice, on the oath of one witness.

Must be sold without delay, &c.—By *sect. 8*, no fish shall, after the arrival of the vessel at the Nore, be put into any well-boat or store-boat, under the penalty of 20*l.*; nor be unloaded or delivered out of any fishing vessel, unless by retail, into any other vessel, but into such vessel or boat only as shall be employed to carry the fish directly to the market of Billingsgate or Westminster, or (by 4 & 5 Will. 4, c. 20,) for the purpose of bringing the same for sale by first

hand at any fish market lawfully established within the cities of London and Westminster. And if any market vessel, into which any fish shall be unloaded and delivered, from the fishing vessel at the Nore, shall remain above one tide in her way to the market at *Billingsgate* or *Westminster*, or shall remain without delivering her fish there at the next market, the offender is liable to be committed to the house of correction to hard labour, not exceeding two months, nor less than one.

By *sect. 9*, the inspector under the act is bound to examine whether the entries are duly made at the Coast Office, under the penalty of 20*l.*, on the like conviction as above.

By *sect. 11*, *bret* or *turbot*, *brill* or *pearl* may be brought to market, though under the dimensions limited by 1 Geo. 1, c. 18, so as the same be not sold by retail above 6*d.* per pound. If any greater price be demanded or taken, or such fish shall not be weighed and measured, if required, the same shall be forfeited; and the offender shall also forfeit 20*s.*, on conviction before *one justice*, on the oath of *one witness*, leviable by distress; in default of which commitment to hard labour not exceeding three months; half the penalty to the informer, and half to the poor; *sect. 15*.

Neglect of Water Bailiff, &c.—By *sect. 14*, the under water bailiff and the yeoman of the waterside of the city of London are bound to see the provisions of the act carried into effect concerning the sale of fish at *Billingsgate*, and the supervisor of the fish market at *Westminster*, in like manner, as to that market, under the penalty of 5*l.* for any neglect, on conviction before *one justice*, on the oath of *one witness*.

Regrating.]—By 2 Geo. 3, c. 15, s. 3, no fish bought on the sea coast, bank of any river, &c., can be sold again by the first purchaser, before it shall have been conveyed to London or Westminster, or such other place in Great Britain as the proprietor shall consign it to, under the penalty of 20*l.*

Fish Carts.]—By *sect. 5*, every carriage used for the conveyance of fish, shall only carry fish, and shall be marked on the outside “*Fish Machine only*,” and shall have the owner’s name and place of abode entered at the office for licensing hackney coaches, and the number of such carriage shall be marked on some conspicuous part of the outside in large figures. Penalty for any default, 40*s.* By *sect. 7*, fish carriages may travel on Sundays.

By *sect. 9*, if any person shall put any game, or any other thing

except fish, into any fish carriage to be thereby conveyed, *penalty 5l.* And if the driver shall take up or suffer any passenger, game, or other thing except fish, to be carried or conveyed,—*penalty 40s.*; which if not paid on conviction, the driver may be committed to hard labour to the house of correction not exceeding one month.

By *sect. 10*, if the person, having the care of such carriage loaded with fish consigned to London or Westminster, shall break bulk before it is brought within the weekly bills of mortality, or sell, or expose to sale any of the fish,—*penalty 10l.*

When to be exposed for sale.]—By *sect. 11*, all fish brought by land carriage to London or Westminster, or within the weekly bills of mortality, or the parish of St. Marylebone (by *sect. 35*), shall be sorted, and the next morning after its arrival be exposed to sale in some public market, except the next day happens to be a Sunday, and then on the Monday morning; and until such fish shall be so exposed to sale, no part thereof shall be sold or offered for sale by retail. *Penalty for any default 10l.*

Mackerel.]—By *sect. 12*, mackerel may be sold on a *Sunday*, before or after divine service.

Monopolizing and engrossing.]—By *sect. 13*, if any person shall enter into any contract for buying up any fish, except *salmon* and *lobsters*, before it is brought to open market, or some usual place for the sale of fish, and be there exposed for sale in the ordinary manner, the contract is void, and every party thereto shall forfeit *50l.*

By *sect. 14*, no contract for the buying of *salmon* or *lobsters* shall be in force longer than one year.

Buying for other persons.]—By *sect. 15*, no person shall employ, or be employed by, any other, in buying or to buy in any market in London or Westminster, or within the bills of mortality, any fish brought there to be sold, to be divided by lots or in shares amongst any fishmongers or other persons, in order to be afterwards put to sale again, or sold by retail; nor shall any person buy in any market in London, &c. any fish but what shall be for his own sale or use only. *Penalty 20l.*

Refusing to sell.]—By *sect. 16*, if any proprietor of fish, or any salesman, or person entrusted or employed to sell fish in any public market, shall refuse to sell, or shall enter into any confederacy not to sell, to or for the use of any particular person, any fish there exposed for sale,—*penalty 20l.*

*Must be sold at the first hand, and in certain quantities, &c.]—*By *sect. 17*, all fish which shall be brought for sale in London, &c. shall be openly exposed for sale at the first hand, and shall be sold in no greater number or quantity, or by any greater weight in any one lot or parcel, in *Billingsgate* or any other market, than is therein particularly directed and prescribed; and every lot or parcel shall consist only of one sort of fish. If any person shall sell or buy fish, at the first hand, contrary to those directions, penalty *5l.*

But by *36 Geo. 3, c. 118, s. 2*, any person may by retail, but in no other manner, sell any fish a second time, but not oftener, in *Billingsgate Market*, or within 150 yards from *Billingsgate Dock*, although the same fish shall on the same day have been sold there once before by wholesale.

*Account of Fish to be put up at Fish-stand.]—*By *2 Geo. 3, c. 15, s. 20*, no person shall sell, or expose for sale at the first hand, in any market in London, &c. any fish, before he has put up in some conspicuous manner over the place of sale a true account in large fair and legible character, either wrote or printed, distinguishing the several species and quantity of fish, except as to the number of *flounders, plaice, dabbs, mackerel, maids, herrings, and pilchards*, which account must continue up until all the fish specified therein shall be sold, or the market of the day shall be ended. *Penalty for any default 5l.* And whoever is convicted of taking down, defacing, obliterating, or altering any such account, is liable to a penalty of *40s.*

*Recovery and application of penalties.]—*By *2 Geo. 3, c. 15, s. 26*, all the penalties imposed by that act are recoverable before one justice, and are payable within twenty-four hours after conviction, and may be levied by distress; in default of which commitment to the house of correction to hard labour not exceeding two months. By *sect. 27*, prosecutions must be commenced within three calendar months after the offence.

By *sect. 28*, any person contracting for fish contrary to the act, who shall give the first information against the other party, shall be released from any penalty, and shall be entitled to a moiety of the penalty incurred by the other party.

*Witnesses.]—*By *sect. 29*, a justice may issue a summons for the attendance of witnesses, and in default of their attending, may issue a warrant against them, and on their refusal to be examined may commit them not exceeding fourteen days, nor less than three days.

Backing Warrants.—By *sect. 30*, if any offender against whom a warrant is issued shall escape into another county, any justice of that county may back the warrant.

By *sect. 32* an *appeal* is given to the next sessions, but no *certiorari* by *sect. 33*.

8. *Regulations as to Fishermen.*

Breaking bulk.—By 29 Geo. 2, c. 39, s. 1, if any fisherman shall break bulk, or make sale of his fish, or any part, between Harwich and the Nore, or between Margate and the Nore, to any person to sell again, or shall keep any fish, so as not to sell off the whole cargo of fish within eight days from his arrival at the Nore, and be thereof convicted before one justice on the oath of one witness, the whole cargo of fish, together with the vessel and tackle, shall be forfeited, to be levied by distress and sale; one half to go to the informer, and the other to the trustees under the act.

But by 42 Geo. 3, c. 19, the sale of *eels* may be made within twenty-eight days after the arrival of the vessel at the Nore.

Entering at the Coast Office.—By 33 Geo. 2, c. 27, s. 3, if the master of any fishing vessel shall not within three days after his arrival at the *Nore*, enter the vessel with the deputed clerk in the Coast Office under the collector outward in the port of London, he is liable to a penalty of 50*l.*, on conviction before *two justices* on the oath of *one witness*. And by *sect. 4*, if he refuses or neglects to give in at the same time a particular and true account of the several sorts of fish brought alive to the Nore in his vessel, he forfeits 20*l.* By *sects. 5, 15*, both these penalties are leviable by distress, in default of which commitment to hard labour not exceeding three months. Half the penalty to go to the informer, and the other to the trustees of the fish market in Westminster.

Destroying Fish.—By 2 Geo. 3, c. 15, s. 21, no fisherman shall, after the arrival of his boat from fishing, wilfully destroy, or throw or cast away any fish that is not unwholesome, perished, or unmarketable, (except sprats remaining unsold when the market is ended,) under the penalty of *commitment to hard labour to the house of correction not exceeding two months, nor less than one week*.

Protection from Impressment.—By 50 Geo. 3, c. 108, s. 2, the following persons are exempted from being impressed, except in the case of actual invasion or immediate danger thereof:—1. Every master having the care of any fishing vessel employed in the fisheries

of the kingdom, and who, or some owner of which vessel, shall, within six calendar months before the applying for the protection aftermentioned, have had any apprentice under the age of sixteen bound for a term of five years, and actually having been in his service as a fisherman. 2. Every such apprentice, not exceeding eight, of every vessel of the burthen of fifty tons, not exceeding seven for every vessel of thirty-five tons, not exceeding six for thirty tons, and not exceeding four for every vessel under the burthen of thirty tons, during his actual service until the age of twenty years. 3. One mariner for every vessel of ten tons burthen, besides any such apprentices. 4. Any landmen above the age of eighteen and under thirty, actually employed in navigating or fishing in any vessel of ten tons burthen, for the space of two years, and to the end of any fishing voyage he may then be engaged in, if he shall be so long really and truly employed.

By *sect. 3*, on an affidavit sworn before a justice, that the party is within one of the above descriptions, and stating the particulars thereby required, being tendered at the Admiralty, he is entitled to have a protection granted to him, without fee or reward; and if he shall be impressed, he is entitled to be discharged, on producing such protection to the commanding officer.

Penalty for impressing protected persons.—By *sect. 4*, if any protected person shall be impressed, and on producing his protection to the commanding officer of the press-gang, or offering to produce the same, the officer shall refuse or neglect to see or examine such protection, or shall detain it from the party, and shall not forthwith discharge him; or if the party shall be carried on board any of the King's ships, and the commanding officer shall not on the production or tender of such protection,—or if it shall have been taken away from him, then, if on affidavit made before a justice of the fact, and being tendered to such commanding officer,—he shall not forthwith discharge the party impressed; or if such commanding officer, or any of the crew, shall take away or detain any such protection; every person so offending shall forfeit and pay to the party impressed, or if an apprentice, then to the master of the apprentice, 20*l*.

Seamen refusing to fulfil agreement.—By *sect. 5*, if any seaman, after he shall have entered into any agreement, or take any earnest, for the performance of any fishing voyage, or for any stipulated time, shall neglect or refuse to proceed on the voyage, he is liable to a penalty of 5*l*. And, on complaint made by the master or owner of

the vessel before a justice, a warrant may be issued to apprehend such seaman, and in case he shall not pay such penalty, he may be committed to the house of correction to hard labour, not exceeding thirty days, nor less than fourteen days.

Enticing any Apprentices, &c.—By *sect. 6*, if any master or owner of any ship or vessel shall knowingly hire, entice, harbour, entertain or employ any apprentice, seaman, or landman belonging to any fishing vessel, or who shall have engaged to go on any fishing voyage; *Penalty, 20l.* And by *sect. 31*, one moiety of the penalties goes to the prosecutor, and the other to Greenwich Hospital.

Recovery and Application of penalties.—By *sect. 7*, all the above offences are cognizable by justices of the peace, and all penalties must be paid within twenty-four hours after conviction by the oath of one witness; in default of which they may be levied by distress; and for want of distress, commitment to hard labour not exceeding one month. By *sect. 11*, half the penalty to go to the prosecutor, and half to Greenwich Hospital.

By *sect. 8*, all prosecutions must be commenced within three calendar months after the offence.

Witnesses.—By *sect. 9*, a justice may issue a summons for the attendance of witnesses, and a warrant in case of their default to compel their attendance; and upon refusal to be examined, they may be committed not exceeding fourteen days, nor less than three days.

Backing Warrants.—By *sect. 10*, where any warrant is issued against an offender who goes into another county, it may be backed by any justice of that county, who may hear and determine the offence.

An *appeal* is given to the next sessions by *sect. 12*, and a general form of conviction by *sect. 13*; which is not to be quashed for defect of form, or removed by *certiorari*; *sect. 14*.

Fixtures.

BY 7 & 8 Geo. 4, c. 29, s. 44, if any person shall steal, or rip, cut, or break, with intent to steal, any glass or wood work belonging to any building, or any lead, iron, copper, brass, or other metal, or any utensil or fixture, whether made of metal or other material, respectively fixed in or to any building whatsoever, or any thing made of metal fixed in any land being private property, or for a fence to any

dwelling-house, garden, or area, or in any square, street, or other place dedicated to public use or ornament; *Felony, punishable as simple larceny.*

Floodgates—See Banks of Rivers.

Flour—See Bread, Millers.

Forcible Entry.

THIS offence is still cognizable by a justice of the peace, though the more proper remedy is by indictment at the sessions.

By 15 Ric. 2, c. 2, and 8 Hen. 6, c. 9, s. 2, upon complaint made to a justice by a party grieved, of a forcible entry made into lands, tenements, or other possessions, or forcible holding thereof, the justice shall within a convenient time, at the costs of the party grieved, (without any examining or standing upon the right or title of either party,) take sufficient power of the county, and go to the place where such force is made. And if, after the entry made, the justice shall find such force, he shall cause the offenders to be arrested and put in the next gaol, there to abide convict by the record of the same justice, until they have made fine and ransom to the King.

The justice ought to make a record of such force by him viewed, which he should certify to the clerk of the peace.

If, however, the offenders make no resistance, nor any show of force, at the coming of the justice, then he cannot arrest or remove them. Nor can the justice, in any case, restore the complainant to his possession, without the intervention of a jury; in order to which, he is empowered (by *sects. 3, 4, and 5* of the statute) to issue his precept to the sheriff, commanding him to summon a jury to inquire of the forcible entry.

If the forcible entry is found by the jury, then (by *sect. 3*) the justice shall cause to reseize the lands and tenements so entered or holden, and shall restore the party put out to the full possession of the same. This the justice may do in his own proper person, or he may make his warrant to the sheriff to do it (*f*).

Although one justice alone may proceed in these cases, yet it is advisable for him to take to his assistance one or two more justices (*g*).

Foreign Enlistment.

BY 59 Geo. 3, c. 69, if any natural born subject, without the leave or licence of his Majesty, shall take or accept, or agree to take, any commission, military or naval, in the service of any foreign prince or state, or shall otherwise enter into such service, as an officer, soldier, sailor, or marine; or shall go to, or engage to go to, any country with an intent to serve in any military operation whatsoever; or shall hire, or attempt to hire, any person so to serve, or to go from his Majesty's dominions, with intent to be so enlisted; *Misdemeanor*, punishable by fine and imprisonment.

By *sect. 6*, masters of ships taking on board persons enlisting contrary to the act are liable to a penalty of 50*l.* for each person, and the vessel may be seized by any officer of the customs until such penalty shall be paid, or until the master or owner shall give bail before a justice of the peace for the payment of the penalty.

By *sect. 7*, persons fitting out armed vessels to be employed in the service of any foreign state, with intent to commit hostilities against any state, with which his Majesty shall not then be at war, or issuing commissions for such ships; *Misdemeanor; punishable by fine and imprisonment, and forfeiture of the ships, &c., which may be seized by any officer of the navy, customs, or excise.*

By *sect. 8*, persons aiding in the warlike equipment of armed vessels, which, at the time of their arrival in the King's dominions, are in the service of any foreign state; *Misdemeanor, punishable by fine and imprisonment.*

By *sect. 4*, any justice, residing near to any port or place where any offence made punishable as a misdemeanor shall be committed, on information on oath laid before him, may issue a warrant for the apprehension of the offender, and may examine into the nature of the offence, and commit him, unless he gives bail to answer any indictment for the offence.

Forfeiture—See Fines.

Forgery.

THE law relating to forgery has been consolidated in a great measure by the 11 Geo. 4 & 1 Will. 4, c. 66; but the punishment has been altered by the subsequent statutes of 2 & 3 Will. 4, c. 123, s. 1; 3 & 4 Will. 4, c. 44, s. 3; and 7 Will. 4 & 1 Vict. c. 84, s. 1; and there are various species of this offence relating to the Public Boards and Government Offices, which are defined and punishable under sundry acts of parliament; the enactments of which, as far as respects the definition of the offence, are independent of the provisions of the 11 Geo. 4 & 1 Will. 4, c. 66, and which, verbose and prolix as they may be, it will be nevertheless important to refer to, for the information of the magistrate. Before doing this, however, it will be proper to notice some general principles of law relating to this offence.

What is.—Forgery consists in the *false making, counterfeiting, or altering* of any instrument or writing, with a fraudulent intent, and whereby another person *may* be defrauded; for there is no necessity, in order to complete the offence, that any party should be *actually* defrauded (*g*). And the *publishing or uttering* of the forged instrument, knowing it to be forged, although distinct from the act of forgery, comes within the legal definition of the offence, being equally penal with the act of making or counterfeiting. The making a fraudulent *insertion, alteration, or erasure* in any material part of a true instrument, though merely in a single letter, if a new operation is thereby given to it, is as much a forgery, as if the whole instrument had been fabricated (*h*). And though an instrument be altered, *before* the party to be bound by it has signed it, and it be afterwards executed by him in ignorance of the deceit, the act of him who makes the alteration will not the less be forgery; as if a man, who is ordered to draw a will for a sick person, insert legacies in it of his own head (*i*); or where he is left residuary legatee, and he omits to insert a specific legacy to another individual, which he was directed by the testator to insert in the will (*k*). So, applying a true signature to a false instrument will come within the definition of the crime of forgery; as if a man, finding another's signature at the bottom of a letter at a considerable distance from the other writing, cut off the

(*g*) *R. v. Goate*, 1 Ld. Raym. 737.
 (*h*) *R. v. Elsworth*, 2 East, P. C. 986;
R. v. Birkett, Russ. & Ry. 251; *R. v. Bigg*, 3 P. Wms. 419. And see 2 Deac.

Crim. Law, 1393.
 (*i*) 1 Hawk. c. 70, s. 2.
 (*k*) 2 Deac. Crim. Law, 1394.

contents of the letter, and inserts a general release in the space above the name (*l*). Making a *mark*, also, to any instrument in the name of another person, with intent to defraud, is as much a forgery as if the party had signed that person's name (*m*). Forgery may likewise be committed even by a party making a false deed in his *own name*; as if he make a conveyance of certain lands, and date it (*n*) prior to his former deed conveying the same lands, with intent to defraud his own grantee. And the like, if a man sign an instrument, pretending to be another person of the same name (*o*); or utters it, pretending that the name subscribed is the signature of another person of the same name (*p*). A party also is equally guilty of forgery, although the forged instrument would not be available, if genuine, in the hands of the person to whom it is uttered; as where a man forges the acceptance of a bill of exchange payable to his own order, and negotiates it, without indorsing it (*q*); or where he forges a bill, which is written on unstamped paper (*r*). But the forged instrument must carry, on the face of it, the *semblance* of a genuine instrument, and not be a mere nullity in its very frame. Thus, a false instrument drawn up in the form of a promissory note, but without the signature of the supposed maker, is not such an instrument as will render the party uttering it liable to the penalty of forgery; for, if the writing were even genuine, it would not be a promissory note, either in law or fact (*s*).

The most ordinary case of forgery, however, is that of signing, or uttering, an instrument in a different name from that of the party signing, or uttering it. There are two kinds of this description of forgery: 1st. Where the name used is that of a *real existing* person; 2dly. Where it is the name of a *fictitious* person (*t*). And it matters not, in either of these cases, that the offender pass himself off as the person whose name is used; therefore, if a note be made by a party in an assumed name and character, with intent to defraud, the offence is equally forgery, although the note may be offered as that of the party himself, and not as the note of another person, and notwithstanding no additional credit may be obtained from using the assumed name (*u*).

(*l*) 3 Inst. 171.

(*m*) *R. v. Dunn*, 1 Leach, 57.

(*n*) 1 Hawk. c. 70, s. 2.

(*o*) *Mead v. Young*, 4 T. R. 28.

(*p*) *R. v. Brown*, 2 Leach, 775; 2 Deac. Crim. Law, 1395.

(*q*) *R. v. Birkitt*, Russ. & Ry. 86; *R. v. Wicks*, id. 149.

(*r*) *R. v. Hawkwood*, 2 Leach, 257; 2

East, P. C. 955; 2 Deac. Crim. Law, 1404.

(*s*) *R. v. Pateman*, Russ. & Ry. 455.

(*t*) *R. v. Wilks*, 2 East, P. C. 958; *R. v. Bolland*, 1 Leach, 83.

(*u*) *R. v. Dunn*, 1 Leach, 57; *R. v. Whiley*, Russ. & Ry. 90; *R. v. Marshall*, id. 75; *R. v. Francis*, id. 209.

What is an uttering.].—Any disposal or negotiation of a forged instrument to another person, with a fraudulent intent, will amount to the offence of uttering it, if the party so disposing of it knew it to be forged (*x*).

What is a fraudulent intent.].—The intent need not be to defraud any particular person, but a *general* intent to defraud is sufficient; and if the natural consequence of the act done is to defraud, this is, in contemplation of law, evidence of a fraudulent intent (*y*); and it is immaterial, whether any person be actually defrauded or not (*z*).

The crime of Forgery may be divided under the following heads:—

1. <i>Relating to the Great Seal, &c.</i>	307	The above are all defined and provided for by the 11 Geo. 4 & 1 Will. 4, c. 66. The crime, as it relates to the following heads, is subject to the provisions of various independent acts of parliament.
2. <i>Public and Private negotiable Securities, and Wills</i>	308	
3. <i>Public Funds, and Stock of Public Companies</i>	309	
4. <i>Private Documents and Instruments</i>	312	
5. <i>Public Documents and Instruments</i>	312	
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7. <i>Notes of other Bankers and Banking Companies</i>	318	
8. <i>Foreign Securities</i>	319	
		9. <i>Stamps</i> 321
		10. <i>Customs and Excise</i> 328
		11. <i>Post Office</i> 330
		12. <i>Land Tax, Woods and Forests, &c.</i> 332
		13. <i>Relating to Seamen and Marines, &c.</i> 334
		14. <i>Relating to Soldiers</i> 338

1. *The Great Seal, &c.*

By 11 Geo. 4 & 1 Will. 4, c. 66, s. 2, if any person shall forge or counterfeit, or shall utter, knowing the same to be forged or counterfeited, the great seal of the united kingdom, his Majesty's privy seal, any privy signet of his Majesty, his Majesty's royal sign manual, any of his Majesty's seals appointed by the twenty-fourth article of the union to be kept, used and continued in *Scotland*, the great seal of *Ireland* or the privy seal of *Ireland*, every such offender shall be guilty of *high treason, and shall suffer death accordingly*: Provided always, that nothing contained in an act passed in the seventh year of the reign of King William the Third, intituled "An Act for regulating of Trials in cases of Treason, and Misprision of Treason," or in an act passed in the seventh year of the reign of Queen Anne, intituled "An Act for improving the Union of the two Kingdoms," shall extend to any indictment, or to any proceedings thereupon, for any of the treasons above mentioned.

(*x*) *R. v. Palmer*, 1 N. R. 96; Russ. & Ry. 72.

(*y*) *R. v. Masagora*, Russ. & Ry. 291.
(*z*) 2 East, P. C. 854.

It seems, however, that under the provisions of the subsequent acts of 2 & 3 Will. 4, c. 123, s. 1; 3 & 4 Will. 4, c. 44, s. 3; and 7 Will. 4 & 1 Vict. c. 84, ss. 2 & 3, no greater punishment can now be inflicted for this offence than *Transportation for life, or not less than seven years, or imprisonment not exceeding four years, nor less than two, with or without hard labour and solitary confinement.*

2. *Public and Private negotiable Securities, and Wills.*

By 11 Geo. 4 & 1 Will. 4, c. 66, s. 3, if any person shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any *Exchequer bill* or Exchequer debenture, or any indorsement on, or assignment of, any Exchequer bill or Exchequer debenture, or any bond under the common seal of the United Company of the Merchants of England trading to the *East Indies*, commonly called an *East India bond*, or any indorsement on, or assignment of, any East India bond, or any note or bill of exchange of the Governor and Company of the *Bank of England*, commonly called a *bank note*, or *bank bill of exchange*, or a *bank post bill*, or any indorsement on, or assignment of, any bank note, bank bill of exchange, or bank post bill, or any *will, testament, codicil, or testamentary writing*, or any *bill of exchange*, or any *promissory note* for the payment of money, or any indorsement on, or assignment of, any bill of exchange or promissory note for the payment of money, or any acceptance of any bill of exchange, or any undertaking, warrant, or order for the payment of money; with intent in any of the cases aforesaid to defraud any person whatsoever; the offender was declared to be guilty of *Felony*, and liable to suffer death as a felon. Afterwards by 2 & 3 Will. 4, c. 123, s. 1, the capital punishment, except for forging a will, was abolished, and transportation for life substituted; to which, by 3 & 4 Will. 4, c. 44, s. 3, was added a certain portion of previous imprisonment. And now, by 7 Will. 4 & 1 Vict. c. 84, the punishment for all these different kinds of forgery is declared to be *Transportation for life, or not less than seven years; or imprisonment, not exceeding four years, nor less than two, with or without hard labour and solitary confinement.*

By sect. 4, where, by any act then in force, any person was made liable to the punishment of death for forging or altering, or for offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any instrument or writing designated in such act

ing, uttering, disposing of, or putting off, knowing the same to be forged or altered, any instrument or writing designated in such act by any special name or description, and such instrument or writing, however designated, is in law, a will, testament, codicil, or testamentary writing, or a bill of exchange, or a promissory note for the payment of money, or an indorsement on, or assignment of, a bill of exchange or promissory note for the payment of money, or an acceptance of a bill of exchange, or an undertaking, warrant, or order for the payment of money, within the true intent and meaning of this act; in every such case, the person forging or altering such instrument or writing, or offering, uttering, disposing of, or putting off, such instrument or writing, knowing the same to be forged or altered, may be indicted as an offender against this act.

3. *Public Funds, and Stock of Public Companies.*

False entries in Bank Books, &c.—By 11 Geo. 4 and 1 Will. 4, c. 66, s. 5, if any person shall wilfully make any *false entry in, or wilfully alter any word or figure in, any of the books of account* kept by the Governor and Company of the *Bank of England*, or by the Governor and Company of Merchants of Great Britain trading to the *South Seas*, and other parts of America, and for encouraging the fishery, commonly called the *South Sea Company*, in which books the accounts of the owners of any stock, annuities, or other public funds, transferable at the *Bank of England*, or at the *South Sea House*, shall be entered and kept, or shall in any manner wilfully falsify the accounts of such owners in any of the said books, with intent to defraud; or if any person shall wilfully make any transfer of any share or interest of or in any stock, or other public fund transferable at the *Bank of England*, or at the *South Sea House*, in the name of any person, not being the true and lawful owner of such share or interest, with intent to defraud; *Felony; punishable, by 2 & 3 Will. 4, c. 123, s. 1, with Transportation for life, to which is added, by 3 & 4 Will. 4, c. 44, s. 3, imprisonment, not exceeding four years, nor less than one; with or without hard labour in the common gaol, house of correction, or the penitentiary.*

False transfers, Power of Attorney, &c.—By sect. 6, if any person shall forge or alter, or shall utter, knowing the same to be forged or altered, any *transfer of any share or interest of or in any stock, annuity, or other public fund, transferable at the Bank of England, or at the South Sea House, or of or in the capital stock of any body corporate, company, or society established by charter or act of parliament; or shall forge or alter, or shall utter, knowing the same to*

be forged or altered, any *power of attorney*, or other authority, to transfer any share or interest of or in any such stock, annuity, or capital stock, or to receive any dividend payable in respect of any such share or interest, or shall demand or endeavour to have any such share or interest transferred, or to receive any dividend payable in respect thereof, by virtue of any such forged or altered power of attorney, or other authority, knowing the same to be forged or altered, with intent to defraud; or if any person shall falsely and deceitfully personate any owner of any such share, interest, or dividend as aforesaid, and thereby transfer any share or interest belonging to such owner, or thereby receive any money due to such owner, as if such person were the true and lawful owner; *Felony; punishable, by 7 Will. 4 § 1 Vict. c. 84, s. 1, (as to forging powers of attorney,) with Transportation for life, or not less than seven years, or imprisonment not exceeding four years or less than two, with or without hard labour and solitary confinement.* The other offences specified in this section are punishable as above, under 2 & 3 Will. 4, c. 123, and 3 & 4 Will. 4, c. 44.

Personating the owner of Stock, &c.—By 11 Geo. 4 & 1 Will. 4, c. 66, s. 7, if any person shall falsely and deceitfully personate any owner of any share or interest of or in any stock, annuity, or other public fund, transferable at the *Bank of England*, or at the *South Sea House*, or any owner of any share or interest of or in the capital stock of *any body corporate, company, or society*, then or thereafter to be established by charter or act of parliament, or any owner of any dividend payable in respect of any such share or interest as aforesaid, and shall thereby endeavour to transfer any share or interest belonging to any such owner, or thereby endeavour to receive any money due to any such owner, as if such offender were the true and lawful owner; *Felony; Transportation for life, or for any term not less than seven years, or imprisonment not exceeding four years, nor less than two years, with or without hard labour and solitary confinement, by sect. 26.*

False attestation of Powers of Attorney.—By sect. 8, if any person shall forge the name or handwriting of any person, as or purporting to be a *witness attesting the execution of any power of attorney*, or other authority, to transfer any share or interest of or in any such stock, annuity, public fund, or capital stock as before mentioned, or to receive any dividend payable in respect of any such share or interest; or shall utter any such power of attorney or other authority, with the name or handwriting of any person forged thereon

as an attesting witness, knowing the same to be forged; *Felony; punishable with Transportation for seven years, or with imprisonment not exceeding two years, nor less than one year, with or without hard labour and solitary confinement, by sect. 26.*

False Dividend Warrants.—By sect. 9, if any clerk, officer, or servant of, or other person employed or intrusted by, the Governor and Company of the *Bank of England*, or the *South Sea Company*, shall knowingly make out or deliver any dividend warrant for a greater, or less, amount than the person or persons (on whose behalf such dividend warrant shall be made out) is or are entitled to, with intent to defraud; *Felony; same punishment as in the last section.*

Life Annuities.—By 2 & 3 Will. 4, c. 59, s. 19, if any person shall forge, counterfeit, or alter, or shall cause or procure to be forged, counterfeited, or altered, or shall knowingly or wilfully act or assist in the forging, &c. any declaration, warrant, order, or other instrument, or any affidavit or affirmation required to be made by that act, (for the regulation and management of Government Life Annuities,) or by the commissioners for the reduction of the national debt, under any of the provisions of that act, or under any authority given to them for that purpose; or shall forge, counterfeit, or alter, or cause or procure, &c., or shall knowingly or wilfully act or assist in forging, &c. any certificate or order of any officer of the commissioners for the reduction of the national debt, or the name or names of any person or persons in or to any transfer of any annuity, or in or to any certificate, order, warrant, or other instrument for the payment of money, for the purchase of any annuity under the provisions of that act, or in or to any transfer or acceptance of any such annuity in the books of the commissioners for the reduction of the national debt, or in or to any receipt or discharge for any such annuity, or in or to any receipt or discharge for any payment or payments, due or to become due thereon, or in or to any letter of attorney or other authority or instrument to authorize, or purporting to authorize, the transfer or acceptance of any annuities, or any life annuity of whatsoever kind, or authorizing, or purporting to authorize, the receipt of any life annuity, granted under any of the therein recited acts or that act, or any payment or payments due, or to become due thereon; or shall wilfully utter or deliver, or produce to any person acting under the authority of that act, any forged register or copy of register of birth, baptism, or marriage, or any forged declaration, affidavit, or affirmation, knowing the same to be forged, counterfeited, or altered, with intent to defraud; *Felony; punishable, by 7 Will. 4 &*

1 Vict. c. 84, s. 1 and 3, with Transportation for life, or not less than seven years, or imprisonment not exceeding four years, nor less than two, with or without hard labour, and solitary confinement.

4. *Private Documents and Instruments.*

By 11 Geo. 4 & 1 Will. 4, c. 66, s. 10, if any person shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any *deed, bond, or writing obligatory*; or any *court roll*, or copy of any court roll, relating to any copyhold or customary estate; or any *acquittance or receipt* either for money or goods, or any *accountable receipt*, either for money or goods, or for any note, bill, or other security for payment of money; or any *warrant, order, or request*, for the delivery or transfer of goods, or for the delivery of any note, bill, or other security for payment of money, with intent to defraud any person whatsoever; *Felony; Transportation for any term not less than seven years, or imprisonment not exceeding four years, nor less than two, with or without hard labour and solitary confinement, by sect. 26.*

5. *Public Documents and Instruments.*

Recognizances, Records, &c.—By 11 Geo. 4 & 1 Will. 4, c. 66, s. 11, if any person shall, before any court, judge, or other person lawfully authorized to take any recognizance or bail, acknowledge any recognizance or bail, in the name of any other person not privy or consenting to the same, whether such recognizance or bail in either case be or be not filed; or if any person shall, in the name of any other person not privy or consenting to the same, acknowledge any fine, recovery, *cognovit actionem*, or judgment, or any deed to be enrolled; *Felony; punishable with Transportation for life, or not less than seven years, or with imprisonment not more than four years, nor less than two, with or without hard labour and solitary confinement.*

Copies of Indictment.—By 7 & 8 Geo. 4, c. 28, s. 11, if any clerk of court, or other officer having the custody of the records of the court, or the deputy of such clerk or officer, shall utter a false certificate of any indictment and conviction of any prisoner for a previous felony; or if any person, other than such clerk, officer, or deputy, shall sign any such certificate with a false or counterfeit signature thereto; *Felony; punishable with Transportation for seven years, or with imprisonment not exceeding two years, with or without whipping, and with or without hard labour and solitary confinement, by sect. 9.*

Alienation Office.—By 52 Geo. 3, é. 143, if any person shall make, forge, or counterfeit, or cause or procure to be so done, the mark or hand of the receiver of the prelines at the Alienation Office, upon any writ of covenant, whereby such receiver or any other person shall or may be defrauded, or suffer any loss; *Felony; punishable by 11 Geo. 4 & 1 Will. 4, c. 66, s. 1, with Transportation for life, or not less than seven years, or imprisonment not exceeding four years, nor less than two, with or without hard labour and solitary confinement, by sect. 26.*

Chancery Suitors.—By 12 Geo. 1, c. 32, s. 9, if any person shall forge or counterfeit, or procure to be so done, or willingly act or assist in so doing, the name or hand of the *accountant-general* of the Court of Chancery, the registrar, the clerk of the report office, or any of the cashiers of the Governor and Company of the Bank of England, to any certificate, report, entry, indorsement, declaration of trust, note, direction, authority, instrument, or writing whatsoever, for or in order to the receiving or obtaining any of the money or effects of any of the suitors of the Court of Chancery; or shall forge or counterfeit, or procure to be so done, or wilfully act or assist in so doing, any such certificate or other document as aforesaid, or any instrument or writing in form of such certificate or other document made by such accountant-general, or other person as aforesaid; or shall utter any such, knowing the same to be forged or counterfeited, with intention to defraud any person whatsoever; *Felony; punishable, by 11 Geo. 4 & 1 Will. 4, c. 66, s. 1, with Transportation or imprisonment, as above.*

Exchequer Suitors.] By 1 Geo. 4, c. 35, s. 27, if any person shall forge or counterfeit, or procure to be so done, or willingly aid or assist in so doing, the name or handwriting of any accountant-general of the Court of *Exchequer*, or any Lord Chief Baron, or any of the Barons of the Exchequer, or of the clerk of the reports, or of any of the cashiers of the Governor and Company of the Bank of England, or of any officer of any other body politic or corporate, or company, whom it may concern, to any certificate, report, entry, indorsement, transfer, declaration of trust, note, direction, authority, receipt, instrument, or writing whatsoever, for or in order to the receiving or obtaining any money or effects of the suitors of the Court of *Exchequer*, or shall forge or counterfeit, or procure to be so done, or wilfully aid or assist in so doing, any such certificate or document made or given by such accountant-general, or other person as aforesaid; or

shall utter or publish any such, knowing the same to be forged or counterfeited; or shall claim or demand payment of any sum of money therein mentioned, with intent to defraud; *Felony; punishable, by 11 Geo. 4 & 1 Will. 4, c. 66, s. 1, with Transportation or imprisonment, as above.*

Admiralty Suitors.—By 53 Geo. 3, c. 151, s. 12, if any person shall forge or counterfeit, or procure to be so done, or willingly act or assist in so doing, the name or hand of the registrar for the time being, of the High Court of Admiralty, or High Court of Appeals for Prizes, or his deputy, or any of the cashiers of the Bank of England, to any certificate or other document, for or in order to the receiving or obtaining any of the money or effects of any of the suitors of the said courts, or either of them; or shall forge or counterfeit, or procure to be so done, or willingly act or assist in so doing, any such certificate or other document as aforesaid made by such registrar or his deputy, or any of the cashiers of the Bank; or shall utter or publish any such, knowing the same to be forged or counterfeited, with intention to defraud; *Felony; punishable, by 7 & 8 Geo. 4, c. 28, s. 8, 9, with Transportation for seven years, or imprisonment not exceeding two years, with or without whipping, hard labour, and solitary confinement.*

Registry of Deeds.—By 2 & 3 Ann. c. 4, for the public registering of all deeds, conveyances, and wills, relating to landed property within the *West Riding* of the county of *York*, a memorial is directed to be registered of all such documents at an office situate at *Wakefield*, in the *West Riding*; and the registrar is required to indorse a certificate of such registry on every such deed or other document. And by *sect. 19*, if any person shall at any time forge or counterfeit such memorial or certificate; *Felony; punishable, by 11 Geo. 4 & 1 Will. 4, c. 66, s. 23, with Transportation for fourteen years, or not less than seven, or imprisonment not exceeding three years, nor less than one, with or without hard labour and solitary confinement, by sect. 26.*

By 5 & 6 Ann. c. 18, s. 8, if any person shall forge or counterfeit any entry of the acknowledgment of any bargainer, in any bargain or sale of any lands or tenements within the *West Riding* of *Yorkshire*, or any memorial, certificate, or indorsement as therein mentioned; *Felony; punishable as last mentioned.*

By 7 Ann. c. 20, for the public registering of deeds, conveyances, wills, and other incumbrances affecting landed property, within the

county of *Middlesex*, it is enacted by *sect. 15*, that if any person shall forge or counterfeit any entry of the acknowledgment of any memorial, certificate, or indorsement, as is therein mentioned or directed; *Felony; punishable as last mentioned.*

Parish Registers.—By 11 Geo. 4 & 1 Will. 4, c. 66, s. 20, if any person shall knowingly and wilfully insert, or cause or permit to be inserted, in any register of baptisms, marriages, or burials, which hath been or shall be made or kept by the rector, vicar, curate, or officiating minister of any parish, district parish, or chapelry in England, any false entry of any matter relating to any baptism, marriage, or burial; or shall forge or alter in any such register, any entry of any matter relating to any baptism, &c.; or shall utter any writing as and for a copy of an entry in any such register of any matter relating, &c., knowing such writing to be false, forged, or altered; or if any person shall utter any entry in any such register, in any matter relating, &c., knowing such entry to be false, &c., or shall utter any copy of any such entry, knowing such entry to be false, &c.; or shall wilfully destroy, deface, or injure, or cause or permit to be so done, any such register, or any part thereof; or shall forge or alter, or shall utter, knowing the same to be forged or altered, any licence of marriage; *Felony; punishable with Transportation for life, or not less than seven years, or with imprisonment not exceeding four years, nor less than two years, with or without hard labour and solitary confinement, by sect. 26.*

By *sect. 22*, if any person shall knowingly and wilfully insert, or cause or permit to be inserted, in any copy of any register, directed to be transmitted to the registrar of the diocese, any false entry of any matter relating to any baptism, &c.; or shall forge or alter, or shall utter, knowing the same to be forged or altered, any copy of any register so directed to be transmitted; or shall knowingly and wilfully sign or verify any copy of any register so directed to be transmitted, which copy shall be false in any part thereof, knowing the same to be false; *Felony; punishable with Transportation for seven years; or with imprisonment not exceeding two years, nor less than one year, with or without hard labour and solitary confinement, by sect. 26.*

Slave trade.—By 5 Geo. 4, c. 113, for the amendment of the laws relating to the abolition of the slave trade, it is enacted, by *sect. 10*, that if any person shall wilfully or fraudulently forge or counterfeit any certificate, certificate of valuation, sentence or decree of con-

demnation or restitution, copy of such sentence or decree, or any receipt required by that act, or any part of such certificate, &c., or shall knowingly and wilfully utter or publish the same, knowing it to be forged or counterfeited, with intent to defraud; *Felony; punishable with Transportation not exceeding fourteen years; or with imprisonment and hard labour, not exceeding five years, nor less than three years.*

Quarantine.—By 6 Geo. 4, c. 78, s. 25, if any person shall knowingly or wilfully forge or counterfeit, interline, erase, or alter, or procure to be so done, any certificate of *Quarantine*; or publish any such, knowing the same to be forged or altered; or shall knowingly and wilfully utter or publish any such certificate, with intent to obtain the effect of a true certificate to be given thereto, knowing the contents of such certificate to be false; *Felony; punishable, by 7 & 8 Geo. 4, c. 28, ss. 8, 9, with Transportation for seven years; or imprisonment not exceeding two years, with or without whipping, hard labour, and solitary confinement.*

6. *Bank of England Notes.*

For the offence of *forging and uttering* them, see 11 Geo. 4 & 1 Will. 4, c. 66, s. 3, *ante*, p. 308.

Having in possession.—By *sect. 12*, if any person shall, without lawful excuse, (the proof whereof shall lie on the party accused,) *purchase or receive* from any other person, or *have in his custody or possession*, any forged bank note, bank bill of exchange, or bank post bill, blank bank bill of exchange, or blank bank post bill, knowing the same respectively to be forged; *Felony; punishable with Transportation for fourteen years.*

What constitutes a possession.—By *sect. 28*, it is declared, that where the having any matter in the custody or possession of any person, is expressed to be an offence; if any person shall have any such matter in his personal custody or possession, or shall knowingly and wilfully have any such matter in any dwelling-house, or other building, lodging, apartment, field, or other place open or inclosed, whether belonging to or occupied by himself or not, and whether such matter shall be so had for his own use, or for the use or benefit of another; then every person shall be deemed and taken to have such matter in his custody or possession, within the meaning of the act.

False frames and moulds.—By *sect. 13*, if any person shall, with-

out the authority of the Governor and Company of the Bank of England, (to be proved by the party accused,) make, or use, or shall without lawful excuse (to be proved in like manner) knowingly have in his custody or possession, any frame, mould, or instrument for the making of paper, with the words "Bank of England," visible in the substance of the paper, or for the making of paper with curved or waiving bar lines, or with the laying wire lines thereof in a waiving or curved shape, or with any number, sum, or amount expressed in a word or words in Roman letters, visible in the substance of the paper; or if any person shall, without such authority, (to be proved as aforesaid,) manufacture, use, sell, expose to sale, utter, or dispose of, or shall, without lawful excuse (to be proved as aforesaid), knowingly have in his custody or possession, any paper whatsoever as before described; or if any person, without such authority, (to be proved as aforesaid,) shall, by any art or contrivance, cause the words, "Bank of England," to appear visible in the substance of any paper, or cause the numerical sum or amount of any bank note, bank bill of exchange, or bank post bill, blank bank note, blank bank bill of exchange, or blank bank post bill, in a word or words in Roman letters, to appear visible in the substance of the paper whereon the same shall be written or printed; *Felony; punishable with Transportation for fourteen years.*

False plates, &c.—By sect. 15, if any person shall engrave, or in anywise make, upon any plate whatever, or upon any wood, stone, or other material, any promissory note or bill of exchange, or blank promissory note or blank bill of exchange, or part of a promissory note or bill of exchange, purporting to be a bank note, bank bill of exchange, or bank post bill, or blank bank note, &c., or part of a bank note, &c., without the authority of the Bank of England, to be proved by the party accused; or if any person shall use such plate, wood, stone, or other material, or any other instrument or device for the making or printing any such bank note or bill as aforesaid, or part of such bank note or bill, without such authority, to be proved as aforesaid; or if any person shall, without lawful excuse, to be so proved, knowingly have in his custody or possession any such plate, wood, stone, or other material, or any such instrument or device; or shall, without such authority, (to be proved as aforesaid,) knowingly offer, utter, dispose of, or put off, any paper, upon which any blank bank note, &c., or part of a bank note, &c., shall be made or printed; or if any person shall, without lawful excuse, (to be proved as afore-

said,) knowingly have in his custody or possession any such paper; *Felony; punishable with Transportation for fourteen years.*

By *sect. 16*, if any person shall *engrave*, or in anywise make, upon any *plate* whatever, or upon any wood, stone, or other material, any word, number, figure, character, or ornament, the impression taken from which shall resemble, or apparently be intended to resemble, any part of a bank note, &c., without the authority of the Bank of England (to be proved by the party accused); or if any person shall use any such plate, &c., or any other instrument or device, for the making upon any paper, or other material, the impression of any word, &c., which shall resemble, or apparently be intended to resemble, any part of a bank note, &c., without such authority (to be proved as aforesaid); or if any person shall, without lawful excuse, (the proof whereof shall lie on the party accused,) knowingly have in his custody or possession any such plate, &c., or shall, without such authority, (to be proved as aforesaid,) knowingly offer, utter, dispose of, or put off, any paper, or other material, upon which there shall be an impression of any such matter as aforesaid; or if any person shall, without such lawful excuse, knowingly have in his custody or possession any such paper, or other material; *Felony; punishable with Transportation for fourteen years.*

7. *Notes of other Bankers and Banking Companies.*

For the offence of *forging and uttering* them, see 11 Geo. 4 & 1 Will. 4, c. 66, s. 3, *ante*, p. 308.

Using false frames and moulds.—By *sect. 17* of that act, if any person shall make or use any *frame*, *mould*, or *instrument*, for the manufacture of paper, with the name or firm of any person or persons, body corporate, or company carrying on the business of bankers, (other than and except the Bank of England,) appearing visible in the substance of the paper, without the authority of such person or persons, body corporate, or company (the proof of which shall lie on the party accused); or if any person shall, without lawful excuse, (to be so proved,) knowingly have in his possession any such frame, mould, or instrument; or if any person shall, without such authority, (to be so proved,) manufacture, use, sell, expose to sale, utter, or dispose of, or shall, without lawful excuse, (to be so proved,) knowingly have in his custody or possession any paper, in the substance of which the name or firm of any such person or persons, body corporate, or company, carrying on the business of bankers shall appear visible; or if any

person shall, without such authority, (to be so proved,) cause such name or firm to appear visible in the substance of the paper upon which the name shall be written or printed; *Felony; Transportation for fourteen years, or not less than seven years; or imprisonment not exceeding three years, nor less than one year, with or without hard labour and solitary confinement, by sect. 26.*

Engraving false plates.—By sect. 18, if any person shall engrave, or in anywise make, upon any plate whatever, or upon any wood, stone, or other material, any bill of exchange or promissory note for the payment of money, or any part of any such bill or note, purporting to be the bill or note, or part of the bill or note, of any person or persons, body corporate, or company carrying on the business of bankers, (other than and except the Bank of England,) without the authority of such bankers (the proof of which shall lie on the party accused); or if any person shall engrave or make upon any plate whatever, or upon any wood, stone, or other material, any word or words resembling, or apparently intended to resemble, any subscription subjoined to any bill of exchange or promissory note for the payment of money issued by any such bankers, without such authority (to be proved as aforesaid); or if any person shall, without such authority, (to be so proved,) use, or shall, without lawful excuse, (to be so proved,) knowingly have in his custody or possession, any plate, wood, stone, or other material, upon which any such bill or note, or part thereof, or any word or words resembling, or apparently intended to resemble, such subscription, shall be engraved, or made; or if any person shall, without such authority, (to be proved as aforesaid,) knowingly offer, utter, dispose of, or put off, or shall, without lawful excuse, (to be so proved,) knowingly have in his custody or possession, any paper, upon which any part of such bill or note, or any word or words resembling, or apparently intended to resemble, any such subscription shall be made or printed; *Felony; punishable as by sect. 17.*

8. *Foreign Securities.*

Engraving and using false plates.—By 11 Geo. 4 & 1 Will. 4, c. 66, s. 19, if any person shall engrave, or in anywise make, upon any plate whatever, or upon any wood, stone, or other material, any bill of exchange, promissory note, undertaking, or order for payment of money, in whatsoever language or languages the same may be expressed, and whether the same shall or shall not be, or be intended to be, under seal, purporting to be the bill, &c., or part of the bill, &c.,

of any foreign prince or state, or of any officer or minister in the service of any foreign prince or state, or of any body corporate, or body of the like nature, constituted or recognised by any foreign prince or state, or of any person or company of persons resident in any country not under the dominion of his Majesty, without the authority of such prince or state, &c. (the proof of which authority shall lie on the party accused); or if any person shall, without such authority, (to be proved as aforesaid,) use, or shall, without lawful excuse, (to be so proved,) knowingly have in his custody or possession any plate, &c., upon which any such foreign bill, &c. shall be engraved or made; or if any person shall, without such authority, (to be proved as aforesaid,) knowingly offer, utter, dispose of, or put off, or shall, without lawful excuse, (to be proved as aforesaid,) knowingly have in his custody or possession any paper, upon which any part of such foreign bill, &c., shall be made or printed; *Felony; Transportation for fourteen years, or not less than seven years; or imprisonment not exceeding three years, nor less than one year, with or without hard labour and solitary confinement, by sect. 26.*

Forging or Uttering.—By sect. 30, where the forging or altering any writing or matter whatsoever, or the offering, uttering, disposing of, or putting off, any writing or matter whatsoever, knowing the same to be forged or altered, is in the act expressed to be any offence; then, if any person shall *in England* forge or alter, or offer, utter, or dispose of, or put off, knowing the same to be forged or altered, any such writing or matter,—in whatsoever place or country *out of England*, whether under the dominion of his Majesty or not, such writing or matter may purport to be made, or may have been made, and in whatever language or languages the same, or any part thereof, may be expressed; *Felony; punishable in the same manner as if the writing or matter had purported to be made, or had been made, in England.*

By the same section, if any person shall *in England* forge or alter, or offer, utter, dispose of, or put off, knowing the same to be forged or altered, any bill of exchange, or any promissory note for the payment of money, or any indorsement or assignment of any bill of exchange or promissory note for the payment of money, or any acceptance of any bill of exchange, or any undertaking, warrant, or order for the payment of money, or any deed, bond, or writing obligatory for the payment of money,—whether such deed, bond, or writing obligatory shall be made only for the payment of money, or for the

payment of money together with some other purposes,—and in whatever place or country *out of England*, whether under the dominion of his Majesty or not, the money payable or secured by such bill or other document may be, or may purport to be payable, and in whatever language or languages the same respectively, or any part thereof, may be expressed, and whether such document be, or be not, under seal; *Felony; punishable in the same manner as if the money had been payable, or had purported to be payable, in England.*

9. *Stamps.*

Forging, uttering, &c.—By 55 Geo. 3, c. 184, s. 7, if any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, any stamp or die, or any part of any stamp or die, which shall have been provided, made, or used, in pursuance of that or any former act relating to any stamp duty; or shall forge, counterfeit, or resemble, or cause or procure, &c. the impression, or any part of the impression, of any such stamp or die upon any vellum, parchment, or paper; or shall stamp or mark, or cause or procure, &c. any vellum, parchment, or paper, with any such forged or counterfeited stamp or die, or part of any stamp or die, with intent to defraud his Majesty; or if any person shall utter or sell, or expose to sale, any vellum, parchment, or paper, having thereupon the impression of any such forged or counterfeited stamp or die, or any such forged, counterfeited, or resembled impression, or part of impression as aforesaid, knowing the same respectively to be forged, counterfeited, or resembled; or if any person shall privately and secretly use any stamp or die, which shall have been so provided, made, or used as aforesaid, with intent to defraud his Majesty; or shall fraudulently cut, tear, or get off, or cause or procure, &c. the impression of any stamp or die, which shall have been provided, made, or used, in pursuance of that or any former act, for expressing or denoting any stamp duty, from any vellum, parchment, or paper whatsoever, with intent to use the same for or upon any other vellum, parchment, or paper, or any instrument or writing charged or chargeable with any of the duties thereby granted; *Felony; punishable, as to the forgery, by 11 Geo. 4 & 1 Will. 4, c. 66, s. 1, with Transportation for life, or not less than seven years; or imprisonment not exceeding four years, nor less than two, with or without hard labour and solitary confinement, by sect. 26; and, as to the offence of secretly using stamps or dies, or cutting off the impressions of stamps, the 4 & 5 Vict. c. 56, s. 1 and 4 provides the punishment of Transportation for life, or not*

less than seven years, or imprisonment not exceeding three years, with or without hard labour and solitary confinement.

Having in possession.—By 3 & 4 Will. 4, c. 97, s. 12, if any person shall knowingly and without lawful excuse (the proof whereof shall lie on the party accused) have in his possession any false, forged, or counterfeit die, plate, or other instrument, or part of any such plate, resembling, or intended to resemble, either wholly or in part, any die, plate, or other instrument, which at any time whatever hath been, or shall or may be, provided, made, or used by or under the direction of the commissioners of stamps, for the purpose of expressing or denoting any stamp duty whatever; or if any person shall knowingly and without such lawful excuse as aforesaid, have in his possession any vellum, parchment, or paper, having thereupon the impression of any such false, forged, or counterfeited die, plate, or other instrument, or part of any such die, &c., or having thereon any false, forged, or counterfeit stamp, mark, or impression resembling or representing, either wholly or in part, or intended or liable to pass or be mistaken for the stamp, mark, or impression of any such die, &c. which hath been, or shall or may be so provided, made or used as aforesaid, knowing such false, forged, or counterfeit stamp, &c. to be false, forged, or counterfeit; or if any person shall fraudulently use, join, fix, or place for, with, or upon any vellum, parchment, or paper, any stamp, mark, or impression which shall have been cut, torn, or gotten off or removed from any other vellum, parchment, or paper; or if any person shall fraudulently erase, cut, scrape, discharge, or get out of or from any stamped vellum, parchment, or paper any name, sum, date, or other matter or thing thereon written, printed, or expressed, with intent to use any stamp or mark then impressed, or being upon such vellum, parchment, or paper, or that the same may be used for any deed, instrument, matter, or thing, in respect whereof any stamp duty is, or shall or may be or become, payable; or if any person shall knowingly use, utter, sell, or expose to sale, or shall knowingly and without such lawful excuse as aforesaid have in his possession any stamped vellum, parchment, or paper, from, or off, or out of which any such name, sum, date, or other matter or thing as aforesaid, shall have been fraudulently erased, cut, scraped, discharged, or gotten as aforesaid; *Felony; Transportation for life, or not less than seven years; or imprisonment not exceeding four years, nor less than two years.*

By sect. 13, upon information, on oath, a justice may issue his

warrant to search the houses of suspected persons, and seize dies, &c. found therein.

Patent Medicines.].—By 42 Geo. 3, c. 56, s. 20, if any person shall counterfeit or forge, or procure, &c. any seal, stamp, or mark, directed or allowed to be used or provided in pursuance of that act, for the purpose of denoting the duties thereby granted, or shall counterfeit or resemble the impression of the same upon any vellum, parchment, or paper, with intent to defraud his Majesty of any of the stamp duties, or shall utter, vend, or sell any vellum, parchment, or paper directed to be marked or stamped with any mark or stamp provided and used in pursuance of that or any other act for denoting the duties thereby granted, with a counterfeit mark, or stamp thereupon, knowing such mark or stamp to be counterfeit; or if any person shall privately and fraudulently use any seal, stamp, or mark, directed or allowed to be used, with intent to defraud his Majesty of any of such duties; *Felony; punishable, by 11 Geo. 4 & 1 Will. 4, c. 66, s. 1, with Transportation for life, or not less than seven years; or imprisonment not exceeding four years, nor less than two, with or without hard labour and solitary confinement, by sect. 26.*

Gold and Silver plate.].—By 55 Geo. 3, c. 185, s. 7, if any person shall forge or counterfeit, or cause or procure, &c. any mark, stamp, or die, which shall have been provided, made, or used in pursuance of that or any former act, relating to any duties on *gold or silver plate* made or wrought in Great Britain, for the purpose of marking or stamping the same in the manner directed by any such act; or shall forge, counterfeit, or resemble, or cause or procure, &c. the impression of any such mark, stamp, or die upon any such plate, with intent to defraud his Majesty; or if any person shall mark or stamp, or cause or procure, &c. any such gold or silver plate, or any vessel or ware of base metal, with any such forged or counterfeited mark, &c. or shall transpose or remove, or cause or procure, &c. from one piece of gold or silver plate to another, or to any vessel or ware of base metal, any impression made with any mark, &c. which shall have been provided as aforesaid for the purpose of marking or stamping any such plate; or if any person shall sell, exchange, or expose to sale, or export out of Great Britain, any such gold or silver plate, or any vessel or ware of base metal, having thereupon the impression of any such forged or counterfeited mark, &c., or any forged or counterfeited, or resembled impression of any such mark, &c. which shall have been transposed or removed from any other piece of plate

as aforesaid, knowing the same respectively to be forged or counterfeited, or removed, or transposed; or if any person shall wilfully and without lawful excuse, (the proof whereof shall lie on the person accused,) have or be possessed of any such forged or counterfeited mark, &c., or shall privately and secretly use any mark, &c. so provided, made, or used as aforesaid, with intent to defraud his Majesty; *Felony; punishable as to the forgery, by 11 Geo. 4 & 1 Will. 4, c. 66, s. 1, with Transportation for life, or not less than seven years; or imprisonment not exceeding four years, nor less than two, with or without hard labour and solitary confinement, by sect. 26. * And* the offence of transposing stamps, or selling base metal with transposed stamps, or secretly using any stamp or die, is punishable, under 4 & 5 Vict. c. 56, s. 1, with *Transportation for life, or not less than seven years; or imprisonment not exceeding three years, with or without hard labour and solitary confinement, by sect. 4.*

Gold and Silver plate made at Birmingham.—By 5 Geo. 4, c. 52, s. 22, if any person shall cast, forge, or counterfeit, or cause or procure to be so done, any mark or stamp used, or to be used for marking gold or silver plate made within the town of Birmingham, or within thirty miles thereof, by any maker or worker of such plate; or shall cast, forge, or counterfeit, or cause or procure to be so done, any mark, stamp, or impression, in imitation of, or to resemble any other used or to be used as aforesaid by the company of “Guardians of the standard of wrought Plate in Birmingham,” or by any maker or worker of gold or silver plate under that act; or shall mark or stamp, or cause or procure to be marked or stamped, any gold or silver wrought plate, with any mark or stamp, which hath been or shall be forged or counterfeited, in imitation of, or to resemble any mark or stamp used or to be used as aforesaid by the said company, or by any such maker or worker of gold or silver plate, or shall transpose or remove, or cause or procure, &c. from one piece of gold or silver wrought plate to another, or to any gold or silver vessel, or to any vessel of base metal, any mark, stamp, or impression used or to be used as aforesaid; or shall sell, exchange, or expose to sale, or export any gold or silver wrought plate, or any vessel of base metal, with any such forged or counterfeited mark, stamp, or impression thereon, or any mark, stamp, or impression, which hath been or shall be transposed or removed from any other piece of gold or silver plate, knowing such mark, stamp, or impression to be forged, counterfeited, or transposed, or removed as aforesaid; or shall wilfully or knowingly have or be possessed of any mark or stamp used or to be used

as aforesaid; *Felony; punishable as felons are directed to be punished by the laws and statutes of this realm; that is, under the provisions of 7 & 8 Geo. 4, c. 28, s. 8, 9, with Transportation for seven years, or imprisonment not exceeding two, with or without whipping, hard labour, and solitary confinement.*

Newspapers, &c.—By 55 Geo. 3, c. 185, s. 6, if any person shall forge or counterfeit, or cause or procure, &c. any plate, stamp, or die, which shall have been provided, made, or used, in pursuance of that or any former act, for expressing or denoting any of the duties granted on *newspapers*, and licences to keep stage-coaches; or shall forge, counterfeit, or resemble, or cause or procure, &c. the impression, or any part of the impression, of any such plate, &c. upon any paper whatsoever; or shall stamp or mark, or cause or procure, &c. any paper whatsoever with any forged or counterfeited plate, stamp, or die, as aforesaid, with intent to defraud his Majesty of any of the duties thereby granted; or if any person shall utter or sell, or expose to sale, any paper having thereupon the impression of any such forged or counterfeited plate, stamp, or die, or any such forged, counterfeited, or resembled impression, or part of impression, as aforesaid, knowing the same respectively to be forged, counterfeited, or resembled; or if any person shall privately and secretly use any plate, stamp, or die, which shall have been so provided, made, or used as aforesaid, with intent to defraud his Majesty; *Felony; punishable, by 11 Geo. 4 & 1 Will. 4, c. 66, s. 1, with Transportation for life, or not less than seven years; or imprisonment not exceeding four years, nor less than two, with or without hard labour and solitary confinement, by sect. 26.*

By 6 Geo. 4, c. 119, the like provision is made with respect to supplements to newspapers.

Cards and Dice.—By 9 Geo. 4, c. 18, s. 35, if any person shall forge or counterfeit, or cause or procure, &c. any type, die, seal, stamp, mark, plate, or device, or any part thereof, which shall be at any time provided, made, or used, by or under the authority of the commissioners of stamps, in pursuance of that act for stamping *cards*, or *dice*; or shall counterfeit, or cause or procure to be counterfeited or resembled, the impression of any such type, die, &c. or any part thereof, upon any playing card, or dice, or upon any label, thread, or paper inclosing the same; or shall forge or counterfeit the name, handwriting, or signature of the sealing officer, or other officer of stamps, to or upon any wrapper, paper, or material, in which any

dice shall be actually enclosed; or shall forge or counterfeit, or cause or procure, &c. any mark or name, or any part of any mark or name, directed to be used by the commissioners of stamps in pursuance of that act, in order to distinguish the maker of any such cards or dice respectively, and printed or marked on, or affixed to, or making part of, the wrapper, label, or paper in which any playing cards or dice shall be actually enclosed, with intent to defraud his Majesty; or shall utter or sell, or expose to sale, or part with for use in play, any card, dice, ace of spades, label, wrapper, or jew whatsoever, with such counterfeit seal, stamp, mark, device, impression, name or signature, knowing the same to be counterfeit; or shall privately or fraudulently use any seal, stamp, mark, plate, device, or label, at any time provided, made, or used, by or under the authority of the commissioners of stamps in pursuance of that act, with intent to defraud his Majesty; *Felony; punishable, by 11 Geo. 4 & 1 Will. 4, c. 66, s. 1, as above(a).*

* *Name of Receiver General.*—By 46 Geo. 3, c. 76, s. 9, if any person shall knowingly and wilfully forge or counterfeit, or cause or procure &c., or knowingly and wilfully act or assist &c., the name or handwriting of the Receiver General of the Stamp duties for the time being, or of his clerk, or of either of the commissioners of stamps, to any draft, instrument, or writing whatsoever, for or in order to the receiving or obtaining any of the money in the hands or custody of the Governor and Company of the Bank of England, on account of such Receiver General; or shall forge or counterfeit, or cause or procure &c., or knowingly and wilfully act or assist &c., any draft, instrument, or writing in form of a draft, made by the Receiver General, or his clerk, or shall utter, or publish any such, knowing the same to be forged or counterfeited, with intent to defraud any person whatsoever; *Felony; punishable, by 11 Geo. 4 & 1 Will. 4, c. 66, s. 1, as above(a).*

Names of Underwriters to Policies.—By 54 Geo. 3, c. 133, for better enabling the commissioners of stamps to make allowances for spoiled stamps on policies of insurance in Great Britain, and for preventing frauds relating thereto, it is enacted, by *sect. 10*, that if any person shall forge or counterfeit, or cause or procure &c., or wilfully aid or assist &c., the name or handwriting of any underwriter on any policy of insurance, to any declaration of any return of the premium on such policy, or any part thereof; or shall fraudulently

alter, or cause or procure &c., or aid or assist &c., any such declaration, after the same shall have been signed by any underwriter; or shall utter, or make use of any such declaration, knowing the same to have been fraudulently altered, or the name or handwriting of any underwriter to have been forged or counterfeited thereon, for the purpose of obtaining any such allowance as aforesaid, and with intent to defraud his Majesty; *Penalty, 500l. for the first offence; and for the second offence, Felony, punishable with Transportation for seven years.*

All the penalties of this act are extended, by the 54 Geo. 3, c. 144, s. 11, to any contracts of insurance, and to the allowance of stamp duty in the cases therein specified.

Irish Stamps.—By the *Irish Stamp Act*, 56 Geo. 3, c. 56, s. 37, if any person in any part of the united kingdom, or the dominions thereto belonging, shall counterfeit or forge, or cause or procure &c., any type, die, mark, or stamp, to resemble or represent, or be mistaken for, any type, &c., at any time theretofore kept or used, or thereafter to be kept or used, at the stamp office in Dublin, for denoting the charging or marking on vellum, parchment, or paper, or other matter directed to be stamped, any of the stamp duties payable under or by virtue of any act in force in Ireland, although such act may not be in force, or such type, &c., may not be kept or used at the said stamp office, at the time of such forging or counterfeiting; or if any person (except persons lawfully authorized) shall have in his possession any type, &c., made to resemble or represent &c., although the same shall not then be kept or used at the said stamp office, or the duty denoted thereby shall not then be payable in *Ireland*; or if any person shall mark or impress, or cause or procure &c., on any vellum, parchment, or paper, or other matter which theretofore was, or thereafter shall be, directed to be stamped, any device, mark, or impression, to resemble or represent &c.; or if any person shall use, utter, vend, or sell, or cause, &c., or shall have in his or her possession with intent to use, &c., any vellum, parchment, or paper, or other matter, with any counterfeit device, mark, or impression thereon, to resemble or represent, &c., knowing such device or impression to be counterfeited; or if any officer in the employment of the commissioners of stamps, or any other person whatever, shall, with intent to defraud his Majesty, mark or impress, or cause or procure, &c., or be aiding, abetting, or assisting, &c., or in causing or procuring, &c., any stamp, mark, or impression, denoting any of the said stamp duties on vellum, parchment, or paper, or any other matter

directed to be stamped, not delivered to him by or by the authority of the said commissioners of stamps, for the purpose of being duly stamped as aforesaid; or if any person shall, with intent to defraud his Majesty, knowingly have in his possession any vellum, parchment, or paper, or other matter required to be stamped, so fraudulently stamped or marked with any mark or stamp to denote any of the aforesaid duties; *Felony; Transportation for life.*

10. *Customs and Excise.*

Customs.]—By 3 & 4 Will. 4, c. 51, s. 27, if any person shall knowingly and wilfully forge or counterfeit, or cause or procure &c., or knowingly and wilfully act or assist in the forging &c., the name or handwriting of any Receiver General or Comptroller General of the Customs, or of any person acting for them respectively, to any draft, instrument, or writing whatsoever, for or in order to the receiving or obtaining any of the money in the Bank of England, on account of such Receiver General; or shall forge or counterfeit, or cause or procure &c., or knowingly and wilfully act or assist in the forging, &c., any draft, instrument, or writing, in form of a draft made by such Receiver General or person as aforesaid; or shall utter or publish any such, knowing the same to be forged or counterfeited, with an intention to defraud any person whatsoever; every person so offending shall be guilty of *Felony; punishable, by 7 Will. 4 & 1 Vict. c. 84, s. 2, with Transportation for life, or not less than seven years; or imprisonment not more than four years, nor less than two, with or without hard labour and solitary confinement, by sect. 3.*

Excise.]—By 13 Geo. 3, c. 56, s. 5, if any person shall counterfeit or forge any stamp or seal, provided or to be provided by the Commissioners of Excise, or shall counterfeit or resemble the impression of the same, upon any of the commodities chargeable with an Excise duty, thereby to defraud his Majesty of any such duties; *Felony; punishable, by 11 Geo. 4 & 1 Will. 4, c. 66, s. 1, with Transportation for life, or not less than seven years; or imprisonment not exceeding four years, nor less than two, with or without hard labour and solitary confinement, by sect. 26.*

Debentures or Certificates.]—By 52 Geo. 3, c. 143, s. 10, if any person shall, with intent to defraud his Majesty, falsely make, forge, counterfeit, or alter, or cause or procure to be so done, or willingly assist in so doing, any debenture, or any certificate for the payment or return of any money, or any part of any such debenture or certificate,

or any signature thereon, in any case in which such debenture or certificate is, by any act of parliament relating to the duties of *Customs* or *Excise*, required or directed to be given or granted; or shall wilfully, with such intent as aforesaid, utter, publish, or make use of any such debenture or certificate, or part thereof, so being wholly or in part falsely made, forged, counterfeited, or altered; *Felony, punishable as above, under the 11 Geo. 4 & 1 Will 4, c. 66.*

Name of Receiver General.]—By 7 & 8 Geo. 4, c. 53, s. 56, if any person shall forge or counterfeit, or cause or procure to be so done, or shall knowingly and wilfully aid or assist in so doing, the name or handwriting of any Receiver General of Excise, or of any Excise Comptroller of the cash, or of any other person authorized under that act, to any draft, instrument, or writing whatsoever, for or in order to the receiving or obtaining any of the money, bills, notes, drafts, checks, or orders for the payment of money in the hands or custody of the Bank of England, on account of such Receiver General as aforesaid; or if any person shall forge or counterfeit, or cause or procure to be so done, or shall knowingly and wilfully act or assist in so doing, any draft, instrument, or writing, in the form of a draft made by such Receiver General or Excise Comptroller, or by any person authorized as aforesaid; or shall utter or publish any such, knowing the same to be forged or counterfeited, with an intention to defraud; *Felony; punishable with Transportation or imprisonment, as above last mentioned.*

False Permits, &c.]—By 2 & 3 Will. 4, c. 16, s. 3, every person who shall make, or cause or procure to be made, or shall aid or assist in the making, or shall knowingly have in his, her, or their custody or possession, not being authorized by the Commissioners of Excise, and without lawful excuse, (the proof whereof shall lie on the person accused,) any mould or frame, or other instrument, having therein the words “Excise Office,” or any other words, figures, marks, or devices, peculiar to, and appearing in the substance of the paper used by the said Commissioners for permits, or with any or part of such words, figures, marks, or devices, or any of them, intended to imitate or pass for the same; and every person who shall make, or cause or procure to be made, or aid or assist in the making, any paper, in the substance of which the words “Excise Office,” or any other words, figures, &c., intended to imitate and pass for the same, shall be visible; and every person, who shall knowingly have in his, her, or their custody or possession, without lawful excuse, (the proof

whereof shall lie on the person accused,) any paper whatever, in the substance of which the words “Excise Office,” or any other figures, words, &c., intended to imitate and pass for the same, shall be visible; and every person who shall by any art, mystery, or contrivance, cause or procure, or aid or assist in causing or procuring, the words “Excise Office,” or any other words, figures, &c., intending to imitate and pass for the same, to appear visible in the substance of any paper whatever; and every person not authorized or appointed as aforesaid, who shall engrave, cast, cut, or make, or cause or procure &c., or aid or assist &c., any plate, type, or other thing in imitation of, or to resemble, any plate or type made or used by the direction of the Commissioners of Excise, for the purpose of marking or printing the paper to be used for permits; and every person who shall knowingly have in his or her custody or possession, without lawful excuse, (the proof whereof shall lie on the person accused,) any such plate or type; *Felony; Transportation for seven years; or imprisonment not less than two years.*

By *sect. 4*, every person who shall counterfeit or forge, or cause or procure &c., or assist &c., any permit, or any part of any permit, or shall counterfeit any impression, stamp, or mark, figure or device, provided or appointed, or to be provided or appointed, by the Commissioners of Excise to be put on such permit; or shall utter, give, or make use of any counterfeited or forged permit, knowing the same or any part thereof to be counterfeited or forged; or shall utter, give, or make use of any permit with any such counterfeited impression &c., knowing the same to be counterfeited; or if any person shall knowingly and willingly accept or receive any counterfeited or forged permit, or any permit with any such counterfeited impression &c. thereon, knowing the same to be counterfeited; *Misdemeanor; Transportation for seven years; or fine and imprisonment, at the discretion of the court.*

11. *Post Office.*

By 7 Will. 4 & 1 Vict. c. 36, s. 33, every person who shall knowingly and wilfully forge or counterfeit, or cause or procure to be so done, the name or handwriting of the Receiver General of the General Post Office in England or Ireland for the time being, or of any person employed by or under him, to any draft, instrument, or writing whatsoever, for or in order to the receiving or obtaining any of the money in the Bank of England or Ireland on account of such Receiver General; or shall forge or alter, or shall offer, utter, dispose of, or

put off, knowing the same to be forged or altered, any draft, warrant, or order of such Receiver General, or of any person employed by or under him, for money, or for payment of money, with intent to defraud; *Felony; punishable with Transportation for life.*

Forging or using Dies or Plates denoting Postage of Letters.—By 3 & 4 Vict. c. 96, s. 22, if any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, any die, plate, or other instrument, or any part of any die &c., which hath been, or shall or may be, provided, made, or used by or under the direction of the Commissioners of stamps and taxes, or by or under the direction of any other person or persons legally authorized in that behalf, for the purpose of expressing or denoting any of the rates or duties of postage; or if any person shall forge, counterfeit, or imitate, or cause or procure &c., the stamp, mark, or impression, or any part of the stamp, &c., of any such die, plate, or other instrument as aforesaid, upon any paper or other substance or material whatever; or if any person shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused) have in his possession any false, forged, or counterfeit die, plate, or other instrument, or part of any such, resembling, or intended to resemble, either wholly or in part, any die, &c., provided, made, or used as aforesaid; or if any person shall stamp or mark, or cause or procure &c., any paper or other substance or material whatsoever, with any such false, forged, or counterfeit die, plate, or other instrument, or part of any such; or if any person shall use, utter, sell, or expose to sale, or shall cause or procure &c., or shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused) have in his possession any paper or other substance or material, having thereon the impression, or any part of the impression, of any such false, forged, or counterfeit die, plate, or other instrument, or part of any such die, &c., or having thereon any false, forged, or counterfeit stamp or impression, resembling or representing, either wholly or in part, or intended or liable to pass or be mistaken for the stamp, mark, or impression of any such die, &c., knowing such false, forged, or counterfeit stamp, mark, or impression, to be false, forged, or counterfeit; or if any person shall, with intent to defraud her Majesty, her heirs or successors, privately or fraudulently use, or cause or procure &c., any die, &c., so provided, made, or used as aforesaid, or shall with such intent privately or fraudulently stamp or mark, or cause or procure &c., any paper or other substance or material whatsoever, with any such die,

&c.; or if any person shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused) have in his possession any paper or other substance or material so privately or fraudulently stamped or marked as aforesaid; *Felony; Transportation for life, or not less than seven years; or imprisonment not exceeding four years, nor less than two years.*

Manufacturing or using Paper similar to that used for Postage Covers.—By sect. 29, if any person shall make, or cause or procure to be made, or shall aid or assist in the making, or shall knowingly have in his custody or possession, not being legally authorized by the Commissioners of Excise, or other person or persons appointed by the Commissioners of her Majesty's Treasury, and without lawful excuse, (the proof whereof shall lie on the person accused,) any mould or frame, or other instrument, having therein any words, letters, figures, marks, lines, or devices peculiar to, and appearing in, the substance of any paper heretofore or hereafter to be provided or used for postage covers, envelopes, or stamps, or any machinery, or parts of machinery, for working any threads into the substance of any paper, or any such thread, and intended to imitate or pass for such words, letters, &c.; or if any person, except as before excepted, shall make, or cause or procure to be made, or aid or assist in the making of any paper, in the substance of which shall be worked, or shall appear visible, any words, letters, &c., peculiar to, and worked into, or appearing visible in, the substance of any paper, provided or used for postage covers, envelopes, or stamps, or any part of such words, letters, &c., and intended to imitate or pass for the same; or if any person, except as before excepted, shall knowingly have in his custody or possession, without lawful excuse, (the proof whereof shall lie on the person accused,) any paper whatever, in the substance whereof shall be worked or appear visible any such words, letters, &c. as aforesaid, or any part of such words, &c., intended to imitate or pass for the same; or if any person, except as aforesaid, shall by any art, mystery, or contrivance, cause or procure, or aid or assist in causing or procuring, any such words, &c. as aforesaid, or any part of such words, &c., and intended to imitate or pass for the same, to appear worked into, or visible in, the substance of any paper whatever; *Felony; Transportation for seven years; or imprisonment, not less than two years.*

12. *Land Tax, Woods and Forests, &c.*

Land Tax.—By 52 Geo. 3, c. 143, s. 6, if any person shall forge,

counterfeit, or alter, or cause or procure to be so done, or knowingly or wilfully act or assist in so doing, any contract, assignment, certificate, receipt, or attested copy of any certificate made out, or purporting to be made out, by any person authorized to make out the same by any act of parliament, touching the redemption or sale of the *land tax*, or of any part thereof; or if any person shall wilfully utter any such forged, counterfeited, or altered contract, &c., knowing the same to be forged, counterfeited, or altered, with* intent to defraud; *Felony; punishable, by 11 Geo. 4 & 1 Will. 4, c. 66, Transportation for life, or not less than seven years; or imprisonment not exceeding four years, nor less than two years, with or without hard labour and solitary confinement, by sect. 26.*

Woods and Forests.]—By 50 Geo. 3, c. 65, s. 18, if any person shall knowingly and wilfully forge or counterfeit, or knowingly and wilfully act or assist in so doing, the handwriting of either of the Commissioners of his Majesty's *Woods and Forests* and *Land Revenue* for the time being, to any draft, instrument, or writing whatsoever, for or in order to the receiving or obtaining any of the money in the Bank of England, on account of the said commissioners; or shall forge or counterfeit, or cause or procure to be so done, or knowingly and wilfully act or assist in so doing, any draft, instrument, or writing in form of a draft, made by the said commissioners or any or either of them, or shall utter or publish any such, knowing the same to be forged or counterfeited, with an intent to to defraud; *Felony; punishable as above.*

Land Revenue.]—By 54 Geo. 3, c. 70, s. 38, if any person shall forge, counterfeit or alter, or cause or procure to be so done, or knowingly and wilfully act or assist in so doing, the name of any person in or to any transfer of any Bank annuities or funds, by that act authorized or directed to be sold, assigned, transferred, or disposed of, or to any receipt or discharge for any dividends or payments due or to become due thereon, or to any letter of attorney, warrant, or other instrument, to sell, assign, transfer, or dispose of any such Bank annuities or funds, or to receive any dividends or payments due, or to become due thereon, or to any letter of attorney, draft, warrant, instrument, or writing whatsoever, for or in order to the receiving or obtaining any of the money in the Bank of England, or in the hands of any other person under any of the provisions of that act; or shall produce, utter, or publish any such letter of attorney or other instrument, knowing the same to be forged or counterfeited, with intent to defraud; *Felony; punishable as above.*

13. *Relating to Seamen and Marines, and Naval Stores.*

Seamen.—By 10 Geo. 4, c. 26, s. 32, if any person shall forge or counterfeit or alter, or cause or procure to be so done, or knowingly or willingly act or aid or assist in so doing, the name or handwriting of any officer, seaman, marine, or other person entitled, or supposed to be entitled, to any pension, arrears of pension, prize-money, bounty-money, head-money, grant, or share or balance of such monies, for any service performed, or supposed to have been performed, by any such officer, &c., or the name or handwriting of any officer, under-officer, clerk, or person in any way concerned in the paying, or the ordering, directing, or causing the payment of any such monies; or shall falsely make, forge, counterfeit, or alter, or willingly act, aid, or assist in so doing, any letter of attorney, bill, ticket, order, certificate, voucher, receipt, will, or any other power, instrument, warrant, authority, document, or writing whatsoever relating to, or in anywise concerning the payment of, or the obtaining or claiming, any such monies as aforesaid, in order to receive, obtain, or claim any such monies; or shall utter or publish as true, or knowingly and wilfully act, aid, or assist in so doing, any falsely made, or forged, or counterfeited, or altered letter of attorney, or other document as aforesaid, with intention to receive, obtain, or claim, or to enable any other person to receive, obtain, or claim, from any person whatsoever authorized, or supposed to be authorized, to pay the same, the payment of any such arrears of pension or other allowance as aforesaid; or shall knowingly take a false oath for obtaining letters of administration or the probate of any will, in order to receive, obtain, or claim, or to enable any other person to do so, any such monies or allowances as aforesaid; or shall demand or receive any such monies upon letters of administration or a probate of a will, knowing the will to be false, forged, or counterfeited, or knowing the letters of administration or the probate to have been obtained by means of any such false oath as aforesaid, with intent to defraud; *Felony; punishable with Transportation for life, or not less than seven years.*

Navy Tickets, Pay-lists, &c.—By 11 Geo. 4 & 1 Will. 4, c. 20, s. 83, if any person shall forge, or offer, utter, dispose of, or put off, knowing the same to be forged, any ticket, pay-list, extract from any ship's books, or any certificate whatsoever authorized or required by that act, or any inspector's or other cheque, or any letter of attorney, assignment, power, or authority, in order to obtain, or to enable any

other person to receive, any wages, pay, half-pay, prize money, bounty money, or other allowance of money, due, or supposed to be due, in respect of the services of any commissioned, warrant, or petty officer or seaman, or any commissioned or non-commissioned officer of marines, or marine, or any other person, performed, or supposed to be performed, in the Royal Navy; or if any person shall forge, or offer, utter, dispose of, or put off, any purser's or other certificate to a bill of exchange, or any approval of any such bill, respectively required by that act; or if any person shall forge, or utter, or put off, knowing the same to be forged, any receipt for wages, payable under allotments or otherwise, in respect of the services of any person on board of any of his Majesty's ships; or shall forge the name or handwriting of any officer of the Royal Navy or Royal Marines to any receipt for half-pay, or the name or handwriting of any widow to any receipt for any pension or arrears of pension, or the name or handwriting of any person to any receipt for an allowance from the compassionate fund of the navy; or shall offer, utter, dispose of, or put off any such forged receipt, knowing the same to be forged, with intent to defraud; *Felony; punishable with Transportation for life, or not less than seven years; or with imprisonment not exceeding four years, nor less than two years.*

False Probates and Administrations.—By sect. 85, if any person shall fraudulently and deceitfully take a false oath, in order to obtain probate of any will, or letters of administration of the effects, of any deceased commissioned, warrant, or petty officer or seaman, or commissioned or non-commissioned officer of marines, or marine; or if any person shall fraudulently receive or demand any wages, pay, prize money, bounty money, pension, or any part thereof, or any allowance of money whatever, payable or supposed to be payable, in respect of the services of any such officer, seaman, or marine, from the compassionate fund of the Navy, or any pension to the widow of any officer, upon or by virtue of any probate of a will, or letters of administration, knowing such will to be forged, or such probate or letters of administration to have been obtained by means of a false oath, with intent to defraud; *Felony; punishable as last above-mentioned.*

False Petitions to Treasurer of Navy, &c.—By sect. 86, if any person shall subscribe any false petition or application to the treasurer of his Majesty's Navy, or to the paymaster of Royal Marines, falsely and deceitfully representing himself or herself therein to be

the widow, executor, nearest, or one of the nearest of kindred of any deceased commission or warrant officer of the Navy, or commission officer of Marines, or of any petty officer or seaman, non-commissioned officer of Marines, or marine; or shall utter or publish any such petition or application, knowing the same to be false, in order to procure, or enable any other person to procure, a certificate from the inspector of seamen's wills, or from the paymaster of Royal Marines, thereby to obtain, or to enable any other person to obtain, without probate or letters of administration, payment of any wages, pay, half-pay, or pension, or any allowance from the compassionate fund of the Navy, or payment of any wages, prize money, or allowance payable in respect of the services of any officer, seaman, or marine in the Royal Navy, or thereby to obtain, or to enable any other person to obtain, probate of the will, or letters of administration of the effects, of any deceased petty officer, seaman, or non-commissioned officer of Marines, or marine; or if any person shall receive or demand any such wages or other allowance as aforesaid, upon or by virtue of any certificate of the inspector of seamen's wills, or paymaster of Royal Marines, knowing the same to have been obtained by any false representation or pretence; *Felony; punishable with Transportation for fourteen years, or not less than seven years; or with imprisonment not exceeding three years, nor less than one year.*

Registers of Baptism, &c.] By sect. 87, if any person shall forge, or shall utter, offer, or exhibit, knowing the same to be forged, any paper writing, purporting to be an extract from any register of marriage, baptism, or burial, or any certificate of marriage, baptism, or burial, in order to sustain any claim to any wages, prize money, or other monies due or payable in respect of the services of any officer, seaman, or marine in his Majesty's Navy, or to sustain any claim to any half-pay payable to an officer of the Royal Navy or Marines, or to any pension as the widow of an officer, or to any payment or allowance from the compassionate fund of the Navy, or to any gratuity or bounty of his Majesty, given to the relatives of persons slain in fight with the enemy; or if any person shall make any false affidavit, or utter or exhibit any false affidavit, certificate, or other voucher or document, in order fraudulently to procure any person to be admitted a pensioner, as the widow of an officer of the Royal Navy, or in order to sustain any claim to any wages, prize money, or other monies, or to any half-pay or pension, or arrears thereof, or any allowance from the compassionate fund of

the Navy, or to any gratuity or bounty as aforesaid, with intent to defraud; *Felony; punishable as last above mentioned.*

By *sect. 88*, in the case of every offence made felony by that act, every *principal in the second degree*, and every *accessory before the fact*, are declared to be punishable in the same manner as the principal in the first degree; and every *accessory after the fact* is liable to be imprisoned *not exceeding two years*. And wherever the punishment of imprisonment is awarded, it may be with or without hard labour and solitary confinement.

False Certificates of Service.]—By *sect. 89*, if any petty officer or seaman, non-commissioned officer of Marines, or marine, shall obtain, or attempt to obtain, his pay or any part thereof, upon or by means of any false or forged certificate, purporting to be a certificate of service in, or discharge from, any of his Majesty's ships, or from any hospital or sick quarters; *Misdemeanor; same punishment as for perjury.*

Naval Stores.]—By 2 & 3 Will. 4, c. 40, s. 32, if any person shall forge or falsely make any certificate to be given under the authority of that act by the Commissioners of the Admiralty, or by any superintendent, of the purchase or sale of any naval or victualling stores, or shall utter or publish any false or altered certificate of any such purchase or sale, knowing the same to be false; the offender is liable to suffer the *same punishment* as persons guilty of *perjury*.

False Petitions.]—By *sect. 33*, if any person shall subscribe, transmit, utter, or publish any false petition or application to the inspector of seamen's wills, knowing the same to be false, in order to obtain, or to enable any other person to obtain, any check or certificate in lieu of probate or letters of administration; *Felony; Transportation not exceeding fourteen years, nor less than seven; or imprisonment not exceeding three years, nor less than one.*

Certificates and protections from Service.]—By 5 & 6 Will. 4, c. 24, s. 3, if any person shall forge or counterfeit any certificate of service in the navy, or any instrument purporting to be a protection from such service, or shall fraudulently utter or publish the same, knowing it to be forged, or shall fraudulently alter any certificate or protection, or shall forge or fraudulently alter any extract from a baptismal register, or knowingly utter any such false or fraudulently altered extract, or any false affidavit, certificate, or other document, in order to obtain from the Admiralty Office a protection from the naval service; *Misdemeanor.*

14. *Relating to Soldiers.*

Name of Paymaster General.—By 23 Geo. 3, c. 50, s. 10, if any person shall knowingly and wilfully forge or counterfeit, or cause or procure to be so done, or knowingly or wilfully act or assist in so doing, the name or handwriting of the *Paymaster General* of his Majesty's forces, or of his deputy, to any draft, cheque, paper, instrument, or writing whatsoever, for or in order to the receiving or obtaining any of the money in the Bank of England, on account of such Paymaster General, or shall forge or counterfeit, or cause or procure, &c. any draft, &c., in the form of a draft made by such Paymaster General or his deputy, or shall utter or publish any such, knowing the same to be forged or counterfeited, with an intention to defraud; *Felony; punishable with Transportation, or imprisonment, by 11 Geo. 4 & 1 Will. 4, c. 66(b).*

Names of persons entitled to Pay or Pensions.—By sect. 8, if any person shall knowingly and wilfully forge or counterfeit, or cause or procure, &c., the name or handwriting of any person entitled to any such pay, pension, allowance, or relief, or of any person required by that act to sign any certificate, voucher, or receipt, in relation to the payment of any such pay, &c., for and in order to the receiving or obtaining any money thereon; or shall utter any such, knowing the same to be forged or counterfeited, with an intention to defraud; *Felony; punishable with Transportation not exceeding fourteen years.*

Chelsea Hospital.—By 7 Geo. 4, c. 16, s. 25, if any person shall by the sending or production of any *false certificate*, or any altered certificate or discharge, instructions, or other document, knowing the same to have been fraudulently altered, or by making any false representation obtain, or endeavour to obtain, for himself or any other person, from the Commissioners of the Hospital at *Chelsea*, any pension or increase of pension, or other allowance of money, or any enrolment, or other privilege or advantage; *Misdemeanor*, and to forfeit for ever all claim and title to any pension or enrolment on account of service, wounds, or disability.

Pay and Pensions, &c.—By sect. 38, if any person shall forge or counterfeit, or alter, or cause or procure to be so done, or knowingly and willingly act, aid, or assist in so doing, the name or handwriting of any such officer, non-commissioned officer, soldier, or other person

entitled, or supposed to be entitled, to any pension, wages, pay, grant, or other allowance of money, prize money, or relief, due or payable, or supposed to be due or payable, for or on account of any service done, or supposed to be done, by any such officer, &c., or the name or handwriting of any officer, under-officer, clerk, or servant of the Commissioners of *Chelsea Hospital*, or of any officer or person in any way concerned in the paying, or ordering, directing, or causing the payment of the said pensions, wages, &c.; or shall forge, counterfeit, or alter, or cause or procure to be so done, or knowingly and willingly act, aid, or assist in so doing, any letter of attorney, bill, ticket, order, certificate, voucher, receipt, will, or any other power, instrument, warrant, document, or authority whatsoever, relating to or in anywise concerning the payment of, or obtaining or claiming any pension, &c., for and in order to the receiving, obtaining, or claiming the same; or shall utter or publish as true, or knowingly and willingly act, aid, or assist in so doing, knowing the same to be forged, counterfeited, or altered, any such letter of attorney, or other document or authority as aforesaid, with intent to obtain the payment of any such pension, &c. from the said Commissioners, or from any officer, under-officer, clerk, or servant of the said Commissioners, or from the person authorized, or supposed to be authorized, to pay the same, with intent to defraud; *Felony; punishable with Transportation for life, or for such term of years as the court shall adjudge.*

Ordnance.]—By 46 Geo. 3, c. 45, s. 9, if any person shall knowingly and wilfully forge or counterfeit, or cause or procure to be so done, or knowingly and wilfully act or assist in so doing, the name or handwriting of the *Treasurer of the Ordnance* for the time being, or his deputy, or the person or persons duly authorized by that act, to any draft, instrument, or writing whatsoever, for and in order to the receiving any of the money in the Bank of England, on account of such Treasurer; or shall forge or counterfeit, or cause or procure to be so done, or knowingly and wilfully act or assist in so doing, any instrument or writing in form of a draft, made by such Treasurer, &c., or shall utter or publish any such, knowing the same to be forged or counterfeited, with an intention to defraud; *Felony; punishable by 11 Geo. 4 & 1 Will. 4, c. 66, with Transportation, or imprisonment (c).*

Volunteers and Local Militia.]—By 54 Geo. 3, c. 151, for better

(c) See *ante*, p. 333.

regulating the office of agent general for *Volunteers and Local Militia*, it is enacted by *sect. 16*, that if any person shall knowingly and wilfully forge or counterfeit, or cause or procure to be so done, or knowingly and wilfully act or assist in so doing, the name or handwriting of such agent general for the time being, or his deputy, or any person duly authorized by the agent general, to any bill of exchange, acceptance, draft, or instrument in writing whatsoever, for or in order to the receiving or obtaining any of the money in the Bank of England, on account of such agent general; and shall forge or counterfeit, or cause or procure, &c., any bill of exchange, acceptance, draft, instrument, or writing in form of a draft made by such agent general, or shall utter or publish any such, knowing the same to be forged or counterfeited, with intent to defraud; *Felony; punishable, by 11 Geo. 4 & 1 Will. 4, c. 66, s. 1, with Transportation for life, or not less than seven years, or imprisonment not exceeding four years, nor less than two, with or without hard labour and solitary confinement, by sect. 26.*

Army Prize Money.]—By 2 & 3 Will. 4, c. 53, s. 49, if any person shall forge or counterfeit, or alter, or cause or procure to be forged, &c., or knowingly and willingly act or aid or assist in forging, &c., the name or handwriting of any officer, non-commissioned officer, soldier, or other person entitled, or supposed to be entitled, to any prize money, grant, bounty money, share, or other allowance of money due or payable, or supposed to be due or payable, for or on account of any service performed, or supposed to have been performed, by any officer, &c. who shall have really served, or be supposed to have served, in the army, or other military service, or the name or handwriting of any officer, or under-officer, clerk, or servant of, or in the employ of, the Commissioners of Chelsea Hospital, or the name or handwriting of any officer, or person in any way concerned in the paying, or ordering the payment of, any such prize money, &c.; or shall falsely make, forge, counterfeit, or alter, or willingly act, aid, or assist in the false making, &c. any letter of attorney, bill, ticket, order, certificate, voucher, receipt, will, or any other power, instrument, warrant, authority, document, or writing whatsoever, relating to or in anywise concerning the payment of, or the obtaining or claiming, any such prize money, &c., in order to receive, obtain, or claim any such prize money, &c.; or shall utter, or publish as true, or knowingly and willingly act, or aid or assist in uttering, &c. any falsely made or forged, or counterfeited or altered letter of attorney, &c., with intention to receive, obtain, or claim, or

to enable any other person to receive, &c. from the Commissioners of such Hospital, or from their officer, &c., or from any person authorized, or supposed to be authorized, to pay the same, the payment of any such prize money, &c., with intention to defraud any person whatsoever; or shall knowingly take a false oath in order to obtain letters of administration or the probate of any will, in order to receive, obtain, or claim, &c.; or shall demand or receive any prize money, &c. upon letters of administration or a probate of a will, knowing the will to be forged, or the letters of administration to have been obtained by means of any such false oath, with intention to defraud any person whatsoever; *Felony; Transportation for life, or not less than seven years.*

Half-pay, Pensions.—By 2 & 3 Will. 4, c. 106, s. 3, if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, &c., or willingly act or assist in false making, &c. any authority, certificate, or bill of exchange for the payment of any *half-pay, pension, allowance, &c.*, or shall utter the same as true, knowing it to be forged, with intent to defraud any person; *Felony; Transportation for seven years, or imprisonment not exceeding four years.*

Army and Navy Pensions.—By 2 & 3 Vict. c. 51, s. 9, if any person shall forge or counterfeit, or alter, or cause or procure, &c., or knowingly and willingly act, aid, or assist in forging, &c. any minute, copy of minute, assignment of pension, superannuation, or other allowance for services in the army or navy, order, certificate, receipt, document, or other authority whatsoever, relating to or in anywise concerning the claiming or obtaining payment of any pension money or other allowance; or shall utter or publish as true, or knowingly and willingly act, aid, or assist in uttering, &c., knowing the same to be forged, &c., any such minute, &c., or the name of any pensioner, justice of the peace, guardian, parish officer, or other officer, or any other person authorized, or supposed or purporting to be authorized, to sign any such minute, &c., with intent or in order to obtain, or to enable any other person to obtain, the payment of any such pension, pension money, or other allowance from the Commissioners of Chelsea Hospital, or her Majesty's Paymaster General respectively, or from any officer, clerk, or servant of them, or from any person authorized, or supposed to be authorized, to pay any pension, &c. *Felony; Transportation for such term, or such other punishment, as the court shall adjudge.*

1. *Commitment, under 11 Geo. 4 & 1 Will. 4, c. 66, s. 3, for forging and uttering a Bank Note (e).*

Kent, } To the constable of —, in the said county, and to the keeper of the
to wit. } common gaol at — in the said county.

These are to command you, the said constable, in her Majesty's name, forthwith to convey and deliver into the custody of the said keeper of the said common gaol the body of C. D., charged this day before me, J. P., esquire, one of her Majesty's justices of the peace for the said county, on the oath of A. B., of &c., for that he the said C. D. on the — day of —, A. D. —, at the parish of — in the said county, feloniously did forge a certain note of the Governor and Company of the Bank of England commonly called a bank note, for the payment of £ —, and the said forged bank note then and there feloniously did offer, utter, dispose of, and put off, he the said C. D. then and there well knowing the same to be forged, with intent to defraud the Governor and Company of the Bank of England, against the form of the statute in that case made and provided. And you the said keeper are hereby required to receive the said C. D. into your custody in the same common gaol, and him there safely keep, until he shall thence be delivered by due course of law. Given under my hand and seal this — day of &c.

2. *Commitment for having in possession a Forged Bank Note.*

Commencement as above] on the — day of —, A. D. —, at the parish of — in the said county, feloniously, and without lawful excuse, had in his possession a certain forged and counterfeited note of the Governor and Company of the Bank of England, commonly called a bank note, for the payment of £ —, he the said C. D. then and there well knowing the said bank note to be forged, against the form of the statute in that case made and provided. And you the said keeper &c. [*as above to the end.*]

3. *Commitment for forging a Bill of Exchange (e).*

Commencement as above] on the — day of —, A. D. —, at the parish of — in the said county, feloniously did forge the acceptance of a certain bill of exchange for the payment of money, purporting to be the acceptance of one A. B., with intent to defraud one E. F., against the form of the statute in that case made and provided. And you the said keeper &c. [*as above to the end.*]

4. *Commitment for uttering a Forged Bill of Exchange.*

Commencement as above] on the — day of —, A. D. —, at the parish of — in the said county, feloniously did offer, utter, dispose of, and put off a certain forged acceptance of a certain bill of exchange for the payment of money, purporting to be the acceptance of one A. B., with intent to defraud one E. F., he the said C. D. then and there well knowing the said acceptance to be forged, against the form of the statute in that case made and provided. And you the said keeper &c. [*as above to the end.*]

5. *Commitment for forging a Banker's Draft (e).*

Commencement as above] on the — day of —, A. D. —, at the parish of — in the said county, feloniously did forge a certain warrant and order for payment of

money, commonly called a banker's cheque, purporting to be the order or draft of one A. B., upon Messrs. G. & Co. bankers, with intent to defraud one E. F., against the form of the statute in that case made and provided. And you the said keeper &c. [as above to the end.]

6. *Commitment, under sect. 10, for forging a Receipt (f).*

Commencement as above] on the — day of —, A. D. —, at the parish of — in the said county, feloniously did forge a certain acquittance and receipt for money, purporting to be the receipt of one A. B., with intent to defraud the said A. B., against the form of the statute in that case made and provided. And you the said keeper &c. [as before.]

7. *Commitment, under sect. 3, for forging a Will (g).*

Commencement as above] on the — day of —, A. D. —, at the parish of — in the said county, feloniously did forge a certain will and testament, purporting to be the last will and testament of one A. B., with intent to defraud one E. F., against the form of the statute in that case made and provided. And you the said keeper &c. [as before.]

8. *Commitment for uttering a Forged Will.*

Commencement as above] on the — day of —, A. D. —, at the parish of — in the said county, feloniously did offer, utter, dispose of, and put off a certain forged will, purporting to be the last will and testament of one A. B., with intent to defraud one E. F., he the said C. D. then and there well knowing the said will to be forged, against the form of the statute in that case made and provided. And you the said keeper &c. [as before.]

9. *Commitment, under sect. 10, for forging a Bond (h).*

Commencement as above] on the — day of —, A. D. —, at the parish of — in the said county, feloniously did forge a certain bond for the payment of money, purporting to have been signed, sealed, and executed by one A. B., with intent to defraud the said A. B., against the form of the statute in that case made and provided. And you the said keeper &c. [as before.]

10. *Commitment for uttering a Forged Bond.*

Commencement as above] on the — day of —, A. D. —, at the parish of — in the said county, feloniously did offer, utter, dispose of, and put off a certain forged bond for the payment of money, purporting to have been signed, sealed, and executed by one A. B., with intent to defraud the said A. B., he the said C. D. then and there well knowing the said bond to be forged, against the form of the statute in that case made and provided. And you the said keeper &c. [as before.]

Fortune-tellers—See Vagrants.

(f) See ante, p. 312.

(g) See ante, p. 308.

(h) See ante, p. 312.

Frame-work Knitters.

PENALTY on Masters for making Goods not duly marked.]—By 6 Geo. 3, c. 29, s. 1, all frame-work knitted pieces, and stockings made of thread, cotton, worsted, or yarn, or any mixture of all or any of such materials, or of any materials of any other kind, (except such as are made of silk only,) which shall contain three or more threads, must be marked in the manner therein directed, under the *penalty of 5l.* for every piece of frame-work knitted goods, or pair of stockings, and also the forfeiture of the goods, imposed on the master frame-work knitter, or master hosier.

Penalty on Journeymen, &c.]—By *sect. 5*, if any journeyman, apprentice, or servant, or other person employed in the manufacture, shall not duly mark the goods, he is liable to a penalty not exceeding 40s., nor less than 5s., for every piece of goods, or pair of stockings. But (by *sect. 6*) if he shall make it appear, that any goods unduly marked were so marked by direction of his master, he is then exempted from the penalty.

Selling, or exposing to Sale.]—By *sect. 7*, if any person shall sell, or expose to sale, any such goods not duly marked, he shall forfeit 5l. for every frame-work knitted piece, or pair of stockings, as well as the goods themselves. But (by *sect. 8*) if he shall discover the seller, so as such seller shall be convicted, then he is discharged from any penalty.

Recovery and Application of penalties.]—By *sect. 9*, the conviction may be before *one justice*, who is not a frame-work knitter, hosier, or proprietor of such frames, upon the oath of one witness; penalties recoverable by distress; in default of which, commitment to the common gaol not exceeding three months. One moiety of the penalty to go to the informer, and the other to the poor.

Appeal.]—By *sect. 10*, an *appeal* is given to the sessions, the appellant, giving ten days' notice in writing to the convicting justice, and within two days afterwards entering into a recognizance, with two sufficient sureties, to try the appeal.

By *sect. 12*, the act is not to abridge any rights of the company of frame-work knitters.

Hiring Frames, and not returning them.]—By 28 Geo. 3, c. 55, s. 1, if any frame-work knitter, who shall rent or take by hire any stocking frame, shall refuse to yield up and re-deliver it to the person of whom he shall rent it, having received from such person fourteen

days' notice for such purpose, he shall forfeit 20s. to the poor, on conviction before *one justice*, on the oath of *one witness*. In default of payment of the penalty, or of the delivery of the frame to the owner within six days after conviction, he may be committed to hard labour not exceeding three calendar months, nor less than one.

Selling them.—By *sect. 2*, if any person so renting such frame, shall sell, or otherwise unlawfully dispose of it, he is then liable, after being convicted *on indictment*, to suffer solitary imprisonment not less than three calendar months, nor exceeding twelve. And (by *sect. 3*) if any person shall wilfully and knowingly receive or purchase any such frame, he is liable to the same punishment.

Friendly Societies.

FRAUDULENTLY obtaining or withholding Monies from them.]—By 10 Geo. 4, c. 56, s. 25, if any person shall, by any false representation or imposition, fraudulently obtain possession of the monies of any friendly society, or having in his possession any such money shall fraudulently withhold the same, and for which offence no especial provision is made in the rules of such society,—any one justice, on complaint on oath by an officer of the society, may summon the party, and *two justices* may hear and determine the offence according to the rules of the society, confirmed as directed by the act; and upon conviction, they shall award double the amount of the money so fraudulently obtained or withheld to be paid to the treasurer of the society, together with costs not exceeding 10s. In default of payment, distress; and for want of distress, commitment to the common gaol or house of correction to hard labour not exceeding three calendar months.

Enforcing the Award of Arbitrators.—By *sect. 27*, provision is directed to be made by the rules of the society, specifying whether a reference of every matter in dispute between any such society, or any person acting under them, and any individual member thereof, or person claiming on account of any member thereof, shall be made to such of the justices of the peace as may act in and for the county in which such society may be formed, or to arbitrators to be appointed under the act. If the matter in dispute be referred to arbitration, certain arbitrators must be named and elected at the first meeting of the society, or general committee thereof, that shall be held after the enrolment of its rules, none of the arbitrators being beneficially inte-

rested, directly or indirectly, in the funds of the society, of whom a certain number, not less than three, shall be chosen by ballot in each case of dispute; the number of the arbitrators and mode of ballot being determined by the rules of the society; and the names of the arbitrators shall be duly entered in the book of the society in which the rules are entered. The award of the arbitrators, or the major part of them, is directed to be in the form given in the schedule, and is declared to be binding and conclusive upon all parties, without appeal, and not removable into any court of law or equity. And if either of the parties in dispute shall refuse or neglect to comply with, or conform to, the decision of the arbitrators named and elected by the society, pursuant to the provisions of the act, any one justice may summon such party, and *two justices* may proceed to make such order thereupon as to them may seem just. If the sum so awarded, together with costs not exceeding 10s., shall not be immediately paid, it may be levied by distress on the monies and effects of the party, or the society; and in default of such distress, then by distress of the proper goods of the party, or of the officer of the society.

When Justices may act as Arbitrators.—By *sect. 28*, if by the rules of the society it is directed that any matter in dispute shall be decided by justices of the peace, any justice, on complaint made by any member of the society, may summon the party, and *two justices* may proceed to hear and determine the complaint, according to the rules of the society. And in case they shall adjudge any sum to be paid by the person against whom the complaint is made, and such person shall not pay it, they may enforce their award in the same manner as directed by the previous section.

Order to be final.—By *sect. 29*, every order and adjudication of the justices shall be final, and not subject to appeal, nor removable into any court of law, or restrained by the injunction of any court of equity.

Where Arbitrators neglect to act.—By 4 & 5 Will. 4, c. 40, s. 7, when the rules of the society provide for a reference to arbitrators, and it shall appear to any justice, on the complaint on oath of a member of the society, or of any person claiming on his account, that application has been made to the society, for the purpose of having any dispute so settled by arbitration, and that such application has not within forty days been complied with, or that the arbitrators have refused or neglected to make any award,—the justice may summon the trustee, treasurer, steward, or other officer of the society, or

any one of them against whom the complaint is made, and *two justices* may then hear and determine the matter, in the same manner as if the rules of the society had directed a reference to the justices of the peace.

Where a Member expelled.—By *sect. 8*, in case any member shall have been expelled, and the arbitrators or justices shall award or order that he shall be reinstated, the arbitrators or justices may award or order, in default of such reinstalment, to the member so expelled, such sum of money as to them may seem just and reasonable; which is recoverable in the same way as any money awarded by arbitrators.

Witnesses.—By *sect. 10*, any member of the society is a competent witness, notwithstanding any interest he may have as such member in the result of any proceeding.

Fees.—By *sect. 11*, no fee shall be charged to any member for any oath which he may be legally required to make before a magistrate, in order to obtain the payment of his sick pay or allowance.

By 3 & 4 Vict. c. 73, certain provisions in the above acts are explained and amended; but there is nothing that affects the jurisdiction of the magistrate.

The magistrates have no jurisdiction to make any order under these acts, unless the rules of the society have been duly certified by a barrister to the sessions, pursuant to the provisions of the fourth section of the last mentioned act (*i*). And it must also appear by the *constitution* of the society, that the magistrates have power to make the order (*h*). Where an order is made upon persons who have ceased to be *officers* of the society, it is still obligatory upon them, as *members* of the society, to *attempt* to obey the order; and their having ceased to be officers of the society is no justification of entire neglect on their part (*l*).

1. *Information, on 10 Geo. 4, c. 56, s. 25, by an Officer of a Friendly Society, in a case of Fraud on the Society (m).*

Kent, } Be it remembered, that on —, at —, A. B., of —, personally
to wit. } cometh before me, J. P., esquire, one of her Majesty's justices of the peace,
acting in and for, and residing in, the said county, and on his oath complaineth unto
me the said justice, for that he the said A. B. is an officer duly appointed of a certain
friendly society, called —, held and established at the parish of B., in the said
county, according to the statute in that case made and provided; and that the rules,
orders, and regulations of the said society were and are duly confirmed and filed ac-

(i) *R. v. Gilkes*, 8 B. & C. 439.

(k) *R. v. Inge*, 2 Smith, 56.

(l) *R. v. Gash*, 1 Stark. Rep. 441.

(m) See *ante*, p. 345.

cording to the said statutes ; and also, for that on the &c., at the parish aforesaid in the county aforesaid, one C. D., late of &c., being a member of the said society, did then and there fraudulently and falsely represent to the said A. B., that &c. [*here state concisely the false representation*], and by such fraudulent and false representation the said C. D. did then and there fraudulently obtain possession from the said A. B. of the sum of — shillings, part of the monies of the said society ; whereas in truth and in fact the said &c. [*negutiving the truth of the representation*], and that for such offence there is no especial provision made in the rules of the said society ; contrary to the form of the statute in that case made and provided * : Wherefore the said A. B. prays the judgment of me the said justice in the premises, and that the said C. D. may be summoned to answer this complaint, according to the directions of the statute in that behalf.

Exhibited before me, on the day and
year first above named, J. P.

A. B.

2. Summons thereon.

Kent, ¶ To Mr. C. D., a member of the friendly society called —, at —, in
to wit. § the county of —.

Whereas A. B., of &c., an officer duly appointed by the said society in that behalf, hath this day made complaint upon oath before me, J. P., esquire, one of her Majesty's justices of the peace acting in and for, and residing in, the said county, that on &c. [*here state the offence as in the form No. 1, to the asterisk*] : These are therefore in her Majesty's name to summon you to appear before me, and such other justices as may then and there be assembled, at — in the said county, on &c., at the hour of — in the forenoon, to answer the said complaint, and you are also hereby required to bring with you, and produce before me and them, the rules, orders, and regulations of the said society. Given under my hand, this — day of &c. J. P.

3. Conviction thereon.

Kent, ¶ Be it remembered, that on &c., at &c., A. B. of &c., personally came before me, J. P., esquire, &c. [*as in the above information, to the asterisk*] : Whereupon the said C. D., after being duly summoned to answer the said charge, appeared before us, the said J. P., and W. O., esquire, another of her Majesty's justices of the peace for the said county, on the — day of —, at — in the said county, and having heard the charge contained in the said information, declared he was not guilty of the said offence : Whereupon we, the said justices, did proceed to examine into the truth of the charge contained in the said information ; and now here one credible witness, to wit, E. F., of &c., deposeth and saith, in the presenoc of the said C. D., that the said C. D., on &c., at &c. [*here state the evidence, and as nearly as possible in the words used by the witness, and if more than one witness is examined, whether on the part of the prosecution, or for the defence, the evidence of each must be specifically stated*] : Wherefore, it manifestly appearing to us, that the said C. D. is guilty of the offence charged upon him in the said information, we, the said justices, do hereby convict him of the offence aforesaid, and do hereby declare and adjudge that he the said C. D. hath forfeited for the offence aforesaid the sum of £ — of lawful money of Great Britain, being double (u) the amount of the money so fraudulently obtained, together with the

(u) See ante, p. 345.

sum of 10s. for costs; which said two several sums of £—— and 10s., we the said justices do hereby order and direct the said C. D. to pay the said A. B., pursuant to the statute in such case made and provided. Given under our hands and seals, this — day of —, in the year of our Lord, 1842.

J. P.

W. O.

4. *Information, on the 10 Geo 4, c. 56, s. 27, in order to enable Justices to enforce performance of an Award under the Act (o).*

Kent, } Be it remembered, that on the — day of —, &c. [*as in form No. 1*],
to wit. } and upon his oath complaineth unto me the said justice, that he the said A. B. is a member of a certain friendly society called —, duly established and held at the said parish of —, in the said county, under and by virtue of the statutes in such case made and provided; that by the rules and regulations of the said society, duly allowed and confirmed as by law required, it was and is specified, that a reference of every matter in dispute between the said society, or any person acting under them, and any individual member thereof, or person claiming on account of any member, should and shall be made to arbitrators, to be appointed according to the provisions of the said statutes; that a certain matter of dispute, that is to say, whether &c. [*here state shortly the matter in dispute*], did on &c., at &c., arise between the said society, and the said A. B., then being such member thereof as aforesaid, and that such matter in dispute was on the said &c., at &c., according to the said rules and regulations and the said statute, referred to the arbitration and final decision of I. J., K. L., and M. N., then and there duly named elected and chosen by the said society, according to the statute in that behalf, and not being then or at any other time beneficially interested, directly or indirectly, in the funds of the said society, and the names of the said arbitrators being then and there duly entered in the book of the said society, in which the rules were entered according to the statute in that behalf; and that the said I. J. and K. L., being the major part of the said arbitrators, having taken upon themselves the burthen of the said arbitration, did, on the — day of — last, at the parish aforesaid in the county aforesaid, duly make and publish their award in writing of and concerning the matters so referred to them as aforesaid, and as such arbitrators did then and there award and order that G. P., the treasurer of the said society, should, on &c., at &c., pay to the said A. B. the sum of &c. [*according to the directions of the award*], and of which said award the said J. P. then and there had notice. And the said A. B., on his oath aforesaid, giveth me the said justice further to understand and be informed, that the said A. B. afterwards, on the day and year last aforesaid, there requested the said G. P. to pay to him the said A. B. the said sum of £——, according to the directions of the said award, which the said G. P. then and there wholly neglected and refused to do, and still neglects and refuses so to do; and the said sum of £——, still remains wholly due and unpaid from the said G. P. to the said A. B.*: Wherefore the said A. B. prays that the said G. P. may be summoned to answer to this complaint, according to the directions of the statute in such case made and provided.

A. B.

Exhibited before me, this — day
 of —, 1842, J. P.

5. *Summons thereon.*

Kent, } To Mr. G. P., treasurer of the friendly society called —, at —, in the
to wit. } county of —.

Whereas A. B. of &c., a member of your society, hath this day made complaint upon oath before me, J. P., esquire, one of her Majesty's justices of the peace acting in and for, and residing in, the said county, that on &c., I. J. and K. L., being the major part of certain arbitrators duly appointed by the said society, did make their award in writing of and concerning certain matters in difference, then depending between the said society and the said A. B., and duly referred to them; by which said award they the said arbitrators did award and order that you the said G. P. should, on &c., pay to the said A. B. the sum of £—, and that you have refused to comply with the said award: These are therefore, in her Majesty's name, to summon you to appear before me, and such other of her Majesty's justices for the said county as may be then and there present, at — in the said county, on the — day of — instant, at the hour of — in the forenoon, to answer the said complaint. Given under my hand, at — in the said county, this — day of —, 1842. J. P. .

6. *Order of Justices thereon.*

Kent, } To G. P., treasurer of the friendly society called —, held at — in the
to wit. } county of —.

Whereas A. B., of &c., personally came before me, J. P., esquire, one of her Majesty's justices of the peace in and for, and residing in, the said county, and complained to me, on oath, that he the said A. B. was a member &c. [*here set forth the complaint, as in form No 4, to the asterisk*]: And whereas the said G. P. hath this day appeared before me the said J. P., and W. O., esquire, another of her Majesty's justices of the peace, in and for, and residing in, the said county, at — in the said county, pursuant to a summons duly issued to the said G. P. for that purpose; and the said A. B. being then and there present, we the said justices did then and there proceed to hear and determine the matter of the said complaint, and to make such order thereupon as to us should seem just, according to the statute in such case made and provided: Now, therefore, we the said justices do hereby order and adjudge that the said G. P. do forthwith pay to the said A. B. the said sum of £—, pursuant to the directions of the said award; and we do further award and adjudge that the said G. P. shall also pay to the said A. B. the sum of 10s. for costs, according to the statute in such case made and provided. Given under our hands and seals, at &c., this — day of —, 1842.

J. P. (L. s.)

W. O. (L. s.)

7. *Information on 10 Geo. 4, c. 56, s. 27, where the matter in dispute is referred to a magistrate (p).*

Kent, } Be it remembered &c. [*commencement as in form No. 1*], for that he the
to wit. } said A. B. is a member of a certain friendly society, called —, duly
established by law, and held at —, in the said county; that by the rules of the said

society, duly confirmed and filed according to the directions of the statutes in that behalf, it is directed that every matter in dispute between the said society, or any person acting under them, and any individual member thereof, should be made to such of the justices of the peace as might act in and for the county in which such society was formed. And the said A. B. further saith, that he the said A. B. hath been a member of the said society for the space of three years and upwards, and that he hath for one year past, or thereabouts, been lame, and thereby rendered incapable of working at his calling; that he now does continue so; that he had during the time he was so lame received the allowance from the said society agreed to be given to sick and infirm members, until the — day of — last, when at a club-night of the said society, held at — aforesaid, the members thereof then and there present refused to pay him any further allowance, and declined to accept his contribution-money, and he the said A. B. was then and there, without any sufficient cause, unjustly, illegally, and contrary to the true intent and meaning of the rules of the said society, excluded from the said society and all benefit and advantage which he hath a right to have and claim therefrom. And thereupon the said A. B. prays that C. D. and E. F., the stewards of the said society, may be summoned to answer the said complaint.

8. *Justices' adjudication thereon.*

Kent, } To C. D. and E. F., stewards of the friendly society, called —, held
to wit. } at —, in the parish of —, in the county of —.

Be it remembered, that A. B. of &c., bricklayer, in his proper person, on &c., at &c., in the county aforesaid, made an information and complaint upon oath before me, J. P., esquire, one of her Majesty's justices of the peace acting in and for and residing in the said county, by which said information and complaint the said A. B. deposed and said that he the said A. B. then was a member of, a certain friendly society, called &c. [*stating the complaint as in the last precedent*]. And whereas on &c., at &c., C. D. and E. F., two of the stewards of the said society, pursuant to the summons of me, the said J. P., issued for that purpose, and also G. H., a member of the said society, appeared before us, the said J. P., and W. O., esquire, another of her Majesty's justices of the peace, acting in and for and also residing in the said county of —, and the said A. B. being also then and there present, we the said justices did then and there proceed to hear and determine the matter of the said complaint, according to the true purport and meaning of the said rules, orders, and regulations of the said society, according to the directions of the statute in that behalf; and thereupon we do order and adjudge, that the said A. B. be re-admitted into the said society, and be allowed all the benefits and advantages arising therefrom; and we do hereby order and require you, the said stewards of the said society, to re-admit the said A. B. into the said society, and to allow him all the benefits arising therefrom accordingly. Given under our hands and seals at —, in the county aforesaid, the — day of —, A.D. 1842.

J. P. (L. s.)

W. O. (L. s.)

Fruit — See Gardens.

Furious Driving.

BY the General Highway Act, 5 & 6 Will. 4, c. 50, s. 78, if any person riding any horse or beast, or driving any sort of carriage, shall ride or drive the same furiously, so as to endanger the life or limb of any passenger, he is liable, on conviction before *two justices*, on the oath of *one witness*, to a penalty, not exceeding 5*l.*, in case the driver shall not be the owner of such carriage,—and if he be the owner, then not exceeding 10*l.*,—and in default of payment, to be committed to the common gaol or house of correction to hard labour, not exceeding six weeks. The offender may be apprehended and carried before a justice by any person, who shall see the offence committed.

For the proceedings on summary conviction, see *Highways*.

Under the Stage Coach Act, 2 & 3 Will. 4, c. 120, s. 48, and the Metropolitan Hackney Carriage Act, 1 & 2 Vict. c. 79, s. 17, the penalty for *furious driving* may be recovered before *one justice*.

And see further *Metropolitan Police, Stage Coaches*.

Furze—For maliciously burning it, see *Arson*.

Game.

BY the 1 & 2 Will. 4, c. 32, s. 1, the previous statutes on this subject are repealed, and new provisions substituted, with the exception of those relating to night-poaching. We will therefore consider:—

1. *The Provisions of the 1 & 2 Will. 4, c. 32*..... 352
2. *The Provisions of the 9 Geo. 4, c. 69, as to the Offence of Night-poaching* 359

1. *The Provisions of the 1 & 2 Will. 4, c. 32.*

Killing it on Sunday.—By *sect. 3* of this statute, if any person shall kill, or take any *game*, (which by *sect. 2* is declared to include *hares, pheasants, partridges, grouse, heath or moor-game, black game, and bustards*), or use any dog, gun, net, or other engine or instrument for that purpose, on *Sunday* or *Christmas Day*, such person, on conviction before *two justices*, shall forfeit not exceeding 5*l.* together with costs.

Or out of season.—By the same section; if any person shall kill or take any partridge between the 1st of February and the 1st of

September,—or any pheasant between the 1st of February and the 1st of October,—or any black game (except in the counties of Somerset or Devon, or in the New Forest in Hampshire) between the 10th of December and the 20th of August, or in Somerset or Devon, or the New Forest, between the 10th of December and the 1st of September,—or any grouse, commonly called red game, between the 10th of December and the 12th of August,—or any bustard between the 1st of March and the 1st of September; *Penalty, on the like conviction, not exceeding 1l., for any head of game, with costs.*

Having in possession.—By sect. 4, if any licensed dealer shall buy or sell, or knowingly have in his house, shop, stall, possession, or control, any bird of game after the expiration of ten days (one inclusive and the other exclusive) from the respective days in each year, in which it shall become unlawful to kill or take such birds of game; or if any person, not licenced to deal in game, shall buy or sell any bird of game after ten days (one inclusive and the other exclusive) from the respective days in each year, &c. or shall knowingly have in his house, possession, or control, any bird of game (except when kept in a mew or breeding place) after forty days from the respective days in each year, &c.; *Penalty, on the like conviction, not exceeding 1l. for every head of game, with costs.*

Laying Poison.—By sect. 3, if any person, with intent to destroy or injure any game, shall at any time put, or cause to be put, any poison or poisonous ingredient on any ground, whether open or inclosed, where game usually resort, or on any highway; *Penalty, on the like conviction, not exceeding 10l., with costs.*

By sect. 5, the Act is not to affect any existing laws by which persons are required to obtain annual certificates for killing game, or any woodcock, snipe, quail, or landrail, or any conies.

Where the Occupier of Land liable to Penalties.—By sect. 12, where the right of killing the game upon any land is by the Act given to any lessor or landlord, in exclusion of the right of the occupier, or where such exclusive right is specially reserved by, or granted to, or belongs to the lessor, landlord, or any person whatever, other than the occupier;—then, if the occupier shall pursue, kill, or take any game upon such land, or shall give permission to any other person so to do, without the authority of the lessor, landlord, or such other person; *Penalty, on the like conviction for such pursuit, not exceeding 2l., and for every head of game so killed or taken not exceeding 1l., with costs.*

Justices to hold a Special Sessions to grant Licences.—By *sect. 18*, the justices of every county and town shall hold a special session in the division for which they usually act, in the month of July in every year, for the purpose of granting licences to deal in game, of the holding of which session seven days' notice must be given to each justice of the division; and the majority of the justices then assembled, or at some adjournment thereof, not being less than two, are authorized to grant to any person, being a householder or keeper of a shop or stall within such division,—and not being an innkeeper or victualler, or licensed to sell beer by retail, nor being the owner, guard, or driver of any mail coach, stage coach, or other public conveyance, nor being a carrier or higgler, nor being in the employment of any of the above-mentioned persons,—a licence according to the form in the schedule of the Act, empowering such person to buy and sell game at one house, shop, or stall only. Every person so licensed must affix to the outside of the front of his house, shop, or stall, a board having thereon in clear and legible characters his Christian and surname, with the words: "*Licensed to deal in Game.*" The licence is to continue in force for one year.

By 2 & 3 Vict. c. 35, s. 4, the justices may hold a special session for granting licences, as often as they shall think fit after the month of July in any year; but every licence, at whatever time the same may be granted, is only to continue in force until the 1st of July then next following.

Penalties on Licensed Dealers.—By *sect. 19*, every person so licensed must during the continuance of his licence take out a certificate, subject to a duty of 2*l.*, to be in force for the same period as his licence, which duty shall be paid in like manner as the duties on game certificates. And if any person licensed to deal in game shall buy or sell it before he obtains such certificate, he is liable to a penalty of 20*l.*, which (by *sect. 20*) may be sued for, recovered, and levied in the same manner as penalties on persons neglecting to take out game certificates.

By *sect. 22*, if any person so licensed shall be convicted of any offence against the act, his licence becomes void.

Killing Game, without a Certificate.—By *sect. 23*, if any person shall kill or take any game, or use any dog, gun, net, or other engine or other instrument, for the purpose of searching for, or killing or taking game, not being authorized so to do for want of a game certificate; *Penalty, not exceeding 5*l.*, on conviction before two*

justices; which is to be cumulative to any penalty under any other statute (q).

Taking the Eggs of Game, &c.—By sect. 24, if any person, not having the right of killing the game upon any land, nor having permission from the person having such right, shall wilfully take out of the nest, or destroy in the nest upon such land, the eggs of any kind of game, or of any *swan, wild duck, teal, or widgeon*, or shall knowingly have in his house, shop, possession, or control any such eggs so taken; *Penalty for every egg not exceeding 5s., on the like conviction.*

Selling Game, without a Licence.—By sect. 25, if any person, not having obtained a game certificate (except a licensed dealer in game) shall sell, or offer for sale, any game; or if any person authorized to sell game shall sell it, or offer it for sale, to an unlicensed person; *Penalty not exceeding 2l. for every head of game, on the like conviction.* But, by sect. 26, innkeepers selling game for consumption in their own houses, are exempted from this penalty, if they procure the game from a licensed dealer.

Buying Game, except from licensed Dealers.—By sect. 27, if any person, not a licensed dealer, shall buy any game, except from a person licensed to deal in it, or *bonâ fide* from a person affixing to the outside of the front of his house, shop, or stall, a board purporting to be the board of a person licensed to deal in game; *Penalty, not exceeding 5l. for every head of game, on the like conviction.*

Licensed Dealers buying from uncertificated Persons.—By sect. 28, if any licensed dealer shall buy or obtain any game from any person not authorized to sell it for want of a game certificate, or for want of a licence to deal in game; or if any licensed dealer shall sell, or offer for sale any game at his house, shop, or stall, without such board being affixed as aforesaid; or shall affix, or cause to be affixed, such board to more than one house, shop, or stall, or shall sell any game at any other place; or if any unlicensed person shall assume or pretend, by affixing such board, or by exhibiting any certificate, or by any other device or pretence, to be a person licensed to deal in game; *Penalty, not exceeding 10l., on the like conviction.*

Penalty on Trespassers.—By sect. 30, if any person shall commit

(q) By 52 Geo. 3, c. 93, schedule (L.), rule 12, the penalty for sporting, without a certificate, is 20l., recoverable before two commissioners of assessed taxes, or before one justice who is also a commissioner.

any trespass, by entering or being, in the daytime, upon any land in search or pursuit of *game*, or *woodcocks*, *snipes*, *quails*, *landrails*, or *conies*; *Penalty*, not exceeding 2*l.*, with costs, on conviction before one justice.

By the same section, if any person, to the number of five or more together, shall commit any trespass, by entering or being in the daytime upon any land in search, &c.; *Penalty*, not exceeding 5*l.* on each, on the like conviction.

But any person charged with any such trespass may prove, by way of defence, any matter which would have been a defence to an action at law for such trespass, except that the leave and licence of the occupier of the land shall not be a sufficient defence in any case, where the landlord, lessor, or other person shall have the right of killing the game upon such land by virtue of any reservation or otherwise before-mentioned (*r*); but such landlord, lessor, or other person shall, for the purpose of prosecuting for each of the two last-mentioned offences, be deemed to be the legal occupier, whenever the actual occupier shall have given such leave or licence; and the lord or steward of the Crown of any manor, lordship, or royalty, or reputed manor, lordship, or royalty, shall be deemed to be the legal occupier of the land of the wastes or commons within such manor, &c. (*s*)

Trespassers refusing to tell their names, &c.—By sect. 31, where any person shall be found on any land, or upon any of his Majesty's forests, parks, chases, or warrens, in the daytime, in search or pursuit of game, &c., any person having the right of killing the game upon such land, by virtue of any reservation or otherwise, or any gamekeeper or servant of either of them, or any person authorized by either of them, or the warden or other officer of such forest, &c., may require the person so found forthwith to quit the land, and also to tell his christian name, surname, and place of abode; and, in case of refusal to tell his real name or place of abode, or if he gives such a general description as shall be illusory for the purpose of discovery, or if he wilfully continues or returns upon the land, the party so requiring as aforesaid, and any person acting by his order and in his aid, may apprehend the offender and convey him as soon as conveniently may be before a justice; and such offender (whether so apprehended or not), upon conviction before one justice, shall for-

(*r*) See sects. 7, 8, 12.

(*s*) The information for a trespass under this section may be laid by a party having

no interest in the land; *Middleton v. Gale*, 3 Nev. & P. 372.

feit not exceeding 5l., with costs. But no person so apprehended can be detained for a longer period than twelve hours from the time of his apprehension, until he shall be brought before the justice; and if he cannot, for any reasonable cause, be brought before a justice within that time, then the person so apprehended shall be discharged, but may nevertheless be proceeded against by summons or warrant, as if no such apprehension had taken place.

Trespassers using violence.—By *sect. 32*, where any persons to the number of five or more together, shall be found on any land, or in any of his Majesty's forests, &c., in the daytime, in search or pursuit of game, &c., any of them being armed with a gun, and shall by violence, intimidation, or menace, prevent, or endeavour to prevent, any person authorized as before mentioned from approaching them, for the purpose of requiring them to quit the land, or tell their names and places of abode; every person so offending, and every one aiding or abetting the offender shall, on conviction before *two justices*, forfeit not exceeding 5*l.*, in addition to and independent of any other penalty imposed by the act.

Trespassers in the Royal Forests.—By *sect. 33*, if any person shall commit any trespass, by entering or being, in the daytime, upon any of his Majesty's forests, parks, chases, or warrens, in search or pursuit of game, without being duly authorized, such person shall, on conviction before *one justice*, forfeit not exceeding 2*l.*

What is to be deemed Daytime.—By *sect. 34*, the daytime shall be deemed to commence at the beginning of the last hour before sunrise, and to conclude at the expiration of the first hour after sunset.

Exceptions as to Trespassers.—By *sect. 35*, the above provisions as to trespassers are not to extend to any person hunting or coursing upon lands with hounds or greyhounds, and being in fresh pursuit of any deer, hare, or fox already started upon any other land, nor to any person *bonâ fide* claiming and exercising any right or reputed right of free warren or free chase, nor to any gamekeeper lawfully appointed within the limits of any free warren or free chase, nor to any lord or steward of the Crown of any manor, lordship, or royalty, nor to any gamekeeper lawfully appointed by him within the limits of such manor, &c.

When Game may be taken from Trespassers.—By *sect. 36*, when any person shall be found by day, or by night, upon any land, or in any of his Majesty's forests, &c. in search or pursuit of game, and

shall have in his possession any game which shall appear to have been recently killed, any person having the right of killing the game upon such land, or the occupier of the land (whether there shall or shall not be any such right by reservation or otherwise) or any game-keeper or servant of either of them, or any officer of such forest, &c., or any person acting by the order and in aid of such several persons, may demand from the person so found such game in his possession; and in case he shall not immediately deliver it up, may seize and take it from him for the use of the person entitled to the game.

Application of Penalties, &c.—By *sect. 37*, every penalty, the application of which is not specially provided for, is to be paid to the overseers of the parish for use of the county rate. (But by 5 & 6 Will. 4, c. 20, s. 21, one moiety of the penalty is now directed to be paid to the informer.) And no inhabitant of the county is to be deemed an incompetent witness.

By *sect. 38*, the justice, on conviction, may adjudge that the offender shall pay the penalty immediately, or within such period as he thinks fit, and that in default of payment he shall be imprisoned in the common gaol or house of correction, with or without hard labour, not exceeding two calendar months^(t), where the amount, exclusive of costs, shall not amount to 5*l.*, and not exceeding three calendar months in any other case.

By *sect. 39*, a general form of conviction is given; which by *sect. 43*, must be returned to the sessions.

Witnesses and Evidence.—By *sect. 40*, any justice may issue a summons for the attendance of witnesses; and in default of attendance, or in case of refusal to be examined, the party is liable to a penalty not exceeding 5*l.* And by *sect. 42*, the prosecutor is not required to prove a negative, but the party seeking to avail himself of any matter of exception or defence is bound to prove the same.

Limitation for Prosecutions, and mode of enforcing the appearance of Offenders.—By *sect. 41*, prosecutions must be commenced within three calendar months after the commission of the offence. And where any person shall be charged on oath with any offence, the justice may summon him to appear, and in default of his appearance, then, upon proof of the delivery of a copy of the summons to the party, or the delivery of it at the party's usual place of abode to some inmate there, and explaining the purport thereof, the justice may

(t) See Deacon on the Game Law, p. 108, note.

either proceed *ex parte*, or may issue a warrant against the offender. Or, if the justice has reason to suspect, from information on oath, that the party is likely to abscond, he may issue a warrant in the first instance.

Appeal, &c.—By *sect. 44*, an appeal is given to the next sessions holden not less than twelve days after the conviction, upon giving notice to the prosecutor three days after the conviction, and seven clear days before the sessions; and the party must either remain in custody until the sessions, or enter into a recognizance with a sufficient surety to prosecute the appeal.

By *sect. 45*, no conviction shall be quashed for want of form, or be removed by *certiorari*; and no warrant of commitment shall be void for any defect, if there be a good and valid conviction to sustain it.

By *sect. 47*, the usual restriction is provided as to actions brought against persons for any thing done in pursuance of the act.

Indemnity to Informers.—By 5 & 6 Will. 4, c. 20, s. 20, any persons who shall inform and prosecute, or give evidence against, any other person for any offence under the former act, is indemnified from any penalty which he may have incurred or become liable to under any of its enactments, by reason of any transaction or dealing which he may have had with such other person, provided the information or prosecution be commenced before the institution of any proceedings against himself. And by *sect. 21*, one moiety of all penalties imposed by the former act is to be paid to the informer.

Night poaching.

Penalty for first, second, and third Offence.—By 9 Geo. 4, c. 69, s. 1, if any person shall, *by night*, unlawfully take or destroy any *game* or *rabbits* in any land, whether open or inclosed; or shall, *by night*, unlawfully enter or be in any such land, with any gun, net, engine, or other instrument, for the purpose of taking or destroying game, the offender, on conviction before *two justices*, may be committed to hard labour not exceeding three calendar months, and at the expiration of such imprisonment be required to find sureties, himself in 10*l.*, and two sureties in 5*l.* each, or one surety in 10*l.*, for not offending again for the space of one year; or in default of finding such sureties, he may be further imprisoned and kept to hard labour for the space of six calendar months, unless such sureties are sooner found. For a *second* offence, commitment not exceeding six

calendar months, and then to enter into a recognizance, himself in 20*l.*, and two sureties in 10*l.* each, or one in 20*l.*, not to offend again for two years, or in default, he may be further imprisoned for one year. For a *third* offence, he is guilty of a *Misdemeanor*, punishable with transportation for seven years, or imprisonment with hard labour, not exceeding two years.

Power to apprehend Offenders.—By *sect. 2*, where any person shall be found upon any land committing the offence, the owner, or occupier, or any person having a right of free warren, or free chase therein, or the lord of the manor, or reputed manor, or any gamekeeper or servant of any of such persons, or his assistant, may seize and apprehend the offender upon such land, or, in case of pursuit being made, in any other place to which he may have escaped, and deliver him as soon as may be into the custody of a peace officer.

Assaulting Gamekeepers.—By the same section, if such offender shall assault or offer any violence, with any gun, cross-bow, fire-arms, bludgeon, stick, club, or any other offensive weapon, towards any person so authorized to seize and apprehend him; he is guilty of a *Misdemeanor*, punishable with *Transportation for seven years*; or *imprisonment to hard labour not exceeding two years*.

Issuing Warrant.—By *sect. 3*, where any person shall be charged, on the oath of one witness, before a justice, with any offence under the act, the justice may issue a warrant for apprehending him and bringing him before two justices.

Limitation, &c.—By *sect. 4*, the prosecution of every offence punishable on summary conviction must be commenced within six calendar months after the commission of the offence, and an indictable offence within twelve calendar months.

By *sect. 5*, a general form of *conviction* is given; and by *sect. 6*, an *appeal* to the next sessions holden not less than twelve days after the conviction, upon giving notice to the complainant three days after the conviction, and seven clear days at the least, before the session.

By *sect. 7*, no conviction to be quashed for want of form, or removed by *certiorari*; and no warrant of commitment to be held void by reason of any defect, if it be alleged that the party has been convicted, and there be a good conviction.

By *sect. 8*, every conviction for a first or second offence must be returned to the next sessions, the record of which is declared to be evidence in any prosecution for a second or third offence.

Three persons being together armed.—By sect. 9, if any persons, to the number of *three together*, shall, by *night*, unlawfully enter, or be in any land, whether open or inclosed, for the purpose of taking or destroying game or rabbits, any of such persons being armed with any gun, cross-bow, fire-arms, bludgeon, or any other offensive weapon, each is guilty of a *Misdemeanor*, and upon conviction at the assizes, is liable to *Transportation not exceeding fourteen years, nor less than seven years; or to imprisonment to hard labour not exceeding three years.*

What shall be deemed the Night.—The night shall be considered to commence at the expiration of the first hour after sunset, and to conclude at the beginning of the last hour before sun-rise.

Section 15 defines what animals are to be considered game, which are precisely the same as those above described by the 1 & 2 Will. 4, c. 32, s. 2 (u).

For stealing *Hares* or *Rabbits* from *Warrens* by night, see *post*, **Rabbit Warrens**.

And see further Deacon's Game Laws, 71, et seq.

1. *Information for killing Game without a Certificate, under the 1 & 2 Will. 4, c. 32, s. 23 (v).*

Sussex, } Be it remembered, that on the — day of — in the year of our
to wit. } Lord 1842, at — in the said county, A. B., of — in the said county,
labourer, a credible witness in this behalf, personally came before me J. N., esquire,
one of her Majesty's justices of the peace for the said county, and now informs me,
upon his oath duly administered to him in that behalf, that C. D., late of — in the
said county, labourer, within the space of three calendar months now last past, to wit,
on the — day of — in the year aforesaid at the parish of — in the said county,
did unlawfully and wilfully kill and take game, to wit, three partridges, he the said
C. D. not being authorized so to do, for want of a game certificate, contrary to the statutes
in such case made and provided; whereby the said C. D. hath forfeited the sum of 5*l*.
Whereupon the said A. B. prays that the said C. D. may be summoned to answer the
said charge, and to be further dealt with according to law.

Taken and sworn before me the day and }
year first above mentioned. J. N. } A. B.

2. *Warrant under the 41st section (w) of the Statute, to bring the Party before a Magistrate on the above Information, after a Summons (x) has previously issued against him.*

Sussex, } To the constable of —, in the said county, and all other peace officers
to wit. } in the said county.

Whereas A. B., of — in the said county, labourer, a credible witness in this

(u) See *ante*, p. 352.

(v) See *ante*, p. 354.

(w) See *ante*, p. 358.

(x) For the form of the summons, see
post, title **Summons**.

behalf, on the — day of — instant, at — in the said county, made information and complaint on oath before me J. N., esquire, one of her Majesty's justices of the peace in and for the said county, that C. D., late of — in the said county, labourer, within the space of three calendar months now last past, to wit, on the — day of — instant, at the parish of — in the said county, did unlawfully and wilfully kill and take game, to wit, three partridges, he the said C. D. not being authorized so to do, for want of a game certificate, contrary to the statutes in such case made and provided : And whereas on the — day of — instant, I, the said justice, did issue my summons to the said C. D., requiring him personally to appear before me at — in the said county on the day of the date hereof, to answer to the said charge and to be further dealt with according to law : And whereas it appears to me, upon the oath of C. F., that a copy of the said summons was, on the — day of — instant, duly delivered by him to the said C. D. ; but the said C. D. hath not appeared before me, pursuant to the requisition of the said summons, but hath therein wholly failed and made default : These are therefore to command you the said constable, in her Majesty's name, forthwith to apprehend and bring before me and some one other (y) of her Majesty's justices of the peace for the said county, the body of the said C. D., to answer unto the said charge, and to be further dealt with according to law. And herein fail you not. Given under my hand and seal at — in the county aforesaid, this — day of — in the year of our Lord 1842.

3. *Warrant under the 41st section, where the Offender is likely to abscond (z).*

Sussex, } To the constable, &c. [as before.]
to wit. }

Whereas information and complaint have been this day made before me, J. N., esquire, one of her Majesty's justices of the peace in and for the said county of Sussex, on the oath of A. B., a credible witness in this behalf, that C. D., of — in the said county, labourer, within the space of three calendar months then last past, to wit, on the — day of — instant at the parish of — in the said county, did &c. [stating the offence as in the last precedent] : And whereas, upon information upon oath made before me this day, I, the said justice, have reason to suspect that the said C. D. is likely to abscond ; These are therefore to command you the said constable, in her Majesty's name, forthwith to apprehend and bring before me and some one other of her Majesty's justices of the peace of the said county, the body of the said C. D., to answer unto the said charge, and to be further dealt with according to law. And herein fail you not. Given under my hand and seal this — day of — in the year of our Lord 1842.

4. *Conviction (a) in pursuance of the above Information.*

Sussex, } Be it remembered that on &c., at &c., C. D. is, upon the complaint
to wit. } of A. B., of, &c., convicted before us J. N. and G. F., esquires, two (b)
of her Majesty's justices of the peace for the said county : For that he the said C. D., within the space of three calendar months now last past, to wit, on the — day of — in the year aforesaid, at the parish of — in the said county, did unlawfully and

(y) The conviction must, by *sect. 23*, be by two justices.

(z) See *ante*, title, p. 359.

(a) This form of conviction is given by the 39th section of the statute.

(b) All convictions under the 23d section must be by two justices.

wilfully kill and take game, to wit, one hare and one pheasant, he the said C. D. not being authorized so to do, for want of a game certificate, contrary to the statutes in such case made and provided. And we do adjudge that the said C. D. shall, for the said offence, forfeit the sum of 5*l.*, and shall forthwith pay the sum of £ — for costs; And that in default of immediate payment of the said sums, he the said C. D. shall be imprisoned and kept to hard labour in the house of correction, at — in the said county, for the space of — [*not exceeding two calendar months, where the amount to be paid, exclusive of costs, shall not amount to 5*l.*, and for any term not exceeding three calendar months in any other case*], unless the said sums shall be sooner paid. And we direct that one moiety (c) of the said sum of 5*l.* shall be paid to the said A. B., the person who hath informed and prosecuted for the same, and that the other moiety thereof shall be paid to J. K., being one of the overseers of the poor of the said parish of —, to be by him applied according to the directions of the statute in such case made and provided. And we order that the said sum of £ — for costs shall be paid to the said complainant A. B. Given under our hands the day and year first above mentioned.

J. N.
G. F.

5. *Conviction under 1 & 2 Will. 4, c. 32, s. 23, for using a Dog for the purpose of searching for or killing Game without a Certificate, with an Order giving time for the payment of the Penalty (d).*

Sussex, } Be it remembered, &c., &c. [*as in the last precedent*]: For that he the
to wit. } said C. D., within three calendar months now last past, to wit, on the —
day of — in the year of our Lord 1842, at the parish of — in the county aforesaid, did unlawfully use a certain dog called a pointer, for the purpose of searching for, killing and taking game, he the said C. D. not being then and there authorized so to do, for want of a game certificate, contrary to the statutes in such case made and provided. And we do adjudge that the said C. D. shall for the said offence forfeit the sum of 5*l.* And we order that the said sum of 5*l.*, together with the sum of £ — for costs, shall be paid by the said C. D. on or before the — day of —. And in default of payment on or before that day, we adjudge the said C. D. to be imprisoned and kept to hard labour in the house of correction at — in the said county for the space of — [*not exceeding two calendar months, where the amount to be paid, exclusive of costs, shall not amount to 5*l.*, and for any term not exceeding three calendar months in any other case*], unless the said sums shall be sooner paid. And we direct that one moiety, &c. [*as in the last precedent, to the end*].

6. *Conviction under the 25th section (e) of an uncertificated person for selling Game without a Licence.*

Sussex, } Be it remembered, &c. [*as in form No. 4*]: For that he the said C. D.,
to wit. } not having obtained a game certificate, and not being licensed to deal in
game, according to the directions of the statute in such case made and provided, within the space of three calendar months now last past, to wit, on the — day of — in the year aforesaid, at the parish of — in the said county, did unlawfully sell and

(c) See 5 & 6 Will. 4, c. 20, s. 21, ante, p. 359.

(d) See ante, p. 358.

(e) All convictions under this section must also be by two justices. See ante, p. 355.

offer for sale certain game,* to wit, three partridges, to one W. D., contrary to the form of the statute in such case made and provided. And we do adjudge that the said C. D. shall for his said offence forfeit the sum of 6*l.*, the same being after the rate of 2*l.* for every head of game so sold as aforesaid, and shall forthwith pay the said sum of 6*l.*, together with the sum of £ — for costs. And in default of immediate payment of the said sums, &c. [*as in form No. 4, to the end.*]

7. *Conviction, under the 30th section of the same statute, for trespassing on Land in pursuit of Game (f).*

Sussex, } Be it remembered, &c. [*as in form No. 4*]; for that he the said C. D.,
to wit, } within the space of three calendar months now last past, to wit, on the
— day of — instant, in the day-time (g) of the said day, that is to say, about nine
o'clock in the forenoon of the same day, at the parish of — in the county aforesaid,
unlawfully and wilfully committed a trespass on a certain close situate in the parish
aforesaid, and then and there being in the occupation of the said A. B., by then and
there unlawfully and wilfully entering into the said close, and being there in the day-
time as aforesaid in search and pursuit of game, that is to say, a hare, without the
licence and consent of the said A. B. (h), or of any person having the right of killing
game upon the said close, contrary to the form of the statute in such case made and
provided: And I the said justice do adjudge that the said C. D. shall for his said offence
forfeit the sum of 2*l.*, and shall forthwith pay the said sum of 2*l.*, together with the
sum of 10*s.* for costs; and in default of immediate payment, &c. [*as in form No. 4,*
to the end.]

8. *Conviction for the like offence, where the Defendant failed to appear before the Magistrate (i).*

Sussex, } Be it remembered, that on the — day of —, in the year of our
to wit, } Lord 1842, at — in the county aforesaid, A. B., of &c., yeoman, per-
sonally came before me, J. P., esquire, one of Her Majesty's justices of the peace for
the said county, and informed me, that C. D., of &c., labourer, within the space of
three calendar months now last past, to wit, on the — day of —, in the year
aforesaid, in the day-time of the said day, &c. [*state the offence as in the last precedent,*
to the words "contrary to the form of the statute in such case made and provided"]:
Whereupon the said C. D. was duly summoned to appear before me this day, to answer
the said charge; but the said C. D. not having appeared before me, pursuant to the
said summons, I the said justice did proceed to examine into the truth of the charge
contained in the said information; and now, on this — day of —, in the year
aforesaid, at — in the county aforesaid, one credible witness, to wit, A. W., of &c.,
upon his oath deposeth before me and saith, that about nine o'clock on Wednesday
morning last, the fifth day of September, he saw C. D. with a greyhound in the field
called the Twelve Acre Field, in the occupation of A. B.; that the said C. D. was

(f) See *ante*, p. 356. A conviction under this section may be by one justice.

(g) This allegation appears to be necessary, as the 30th section confines the remedy by summary conviction expressly to a trespass in the day-time. And see Deac. Game Laws, 135, note.

(h) If the actual occupier of the land has sanctioned the trespass, then it will be proper merely to negative the licence of the person entitled to the game. See Deac. Game Laws, 135.

(i) See *ante*, p. 358.

beating about the field apparently in pursuit of hares, and that after this deponent had watched his proceedings for a quarter of an hour, a hare was started in the said field, which was pursued by the said greyhound and the said C. D.; and another credible witness in this behalf, that is to say, one J. K., of &c., also upon his oath deposeth before me and saith, that he well knows the Twelve Acre Field in the occupation of the said A. B., and that he is also well acquainted with the person of the said C. D., and that whilst this deponent was at work in an adjoining field on Wednesday morning last, about half-past eight o'clock, he saw the said C. D. get over the gate which opens into the Twelve Acre Field from the turnpike road, and that he was immediately followed by a greyhound, but what was done afterwards by the said C. D. this deponent does not know, as he went home to his breakfast and saw no more of the said C. D.: Therefore it manifestly appearing to me, the said justice, that the said C. D. is guilty of the offence charged upon him in the said information, I do hereby convict him of the offence aforesaid; and I do declare and adjudge that the said C. D. hath forfeited the sum of 2*l.* for his said offence, and that he do forthwith pay the said sum of 2*l.*, together with the sum of 10*s.* for costs, and in default of immediate payment, &c. [as in the precedent, ante, No. 4].

Gaming.

KEEPING or haunting Gaming Houses.—By 33 Hen. 8, c. 9, s. 11, no person shall for his gain, lucre, or living, keep any common house, alley, or place of bowling, coyting, cloysh, cayls, half-bowls, tennis, dicing table, carding, or any unlawful game then or thereafter to be invented, on pain of forfeiting 40*s.* a day. And by *sect.* 12, every person using and haunting any of such houses and plays, and there playing, forfeits 6*s.* 8*d.* Half these penalties to go to the King, and half to the informer; *sect.* 18.

By 18 Geo. 2, c. 34, s. 1, if any person shall keep any house, room, or place for playing, or permit any person within such house, &c. to play at the game of *roulet*, otherwise *roly-poly*, or at any other game with cards or dice, already prohibited by law, he shall incur the penalty of the 12 Geo. 2, c. 28 (*j*), namely 200*l.* And (by *sect.* 2) all persons playing at any such game incur a similar penalty.

Keeping, or being found therein, within the Metropolitan Police District.—By 2 & 3 Vict. c. 47, s. 48, the owner or keeper of any common gaming house within the metropolitan police district, or other person having the care and management thereof, and also every banker, croupier, and other person who shall act in any manner in conducting such gaming house, shall be liable to a penalty not more than 100*l.*; or, in the discretion of the magistrate before whom he may be convicted, may be committed to the house of correction, with or

(j) See *post*, p. 369.

without hard labour, not more than six calendar months. Upon conviction of such offender, all the monies and securities for money, which may have been seized by the officers in the gaming house, are to be paid to the receiver of the metropolitan police, to be applied towards defraying the charge of the police. Every person found in such premises, without lawful excuse, is liable to a penalty not more than 5*l*.

What proof dispensed with.—By sect. 49, it is not necessary, in support of any information for gaming in, or suffering any games or gaming in, or for keeping or using, or being concerned in the management or conduct of, a common gaming house, under this act, to prove that any person found playing at any game was playing for any money, wager, or stake.

For the proceedings on summary conviction under this act, see *post*, **Metropolitan Police**.

Winning or losing beyond a certain Sum.—By 18 Geo. 2, c. 34, s. 8, if any person shall win or lose at play, or by betting, at any one time, the sum or value of 10*l*., or within twenty-four hours 20*l*., he is liable to be indicted, within six months, in the King's Bench, or at the assizes; and upon conviction shall be fined five times the value of the sum so won or lost; such ~~fine~~ (after the allowance of the prosecutor's costs) to go to the poor of the parish.

Indemnity to Informers.—By sect. 9, if any offender shall discover another, so that he be convicted, the discoverer shall be indemnified from all penalties for such offence, if not before convicted.

*Cheating at play, or winning above 10*l*.*—By 9 Anne, c. 14, s. 5, if any person shall by any fraud, circumvention, deceit, or unlawful device, or ill practice, in playing at or with cards, dice, tables, or other game or games whatsoever, or by bearing a part in the stakes, wagers, or adventures, or by betting on the sides of such as do play, win, obtain, or acquire to himself, or any other, any sum of money or valuable thing whatsoever, or shall, at any one time or sitting, win above the sum of 10*l*.; he shall, on conviction upon indictment or information, forfeit five times the value of the money or thing so won; and in case of such ill practice, shall be deemed infamous, and suffer corporal punishment, as in cases of wilful perjury. The penalty to be recovered by those who will sue.

What persons prohibited from playing.—By 33 Hen. 8, c. 9, s. 16, no manner of artificer, or craftsman of any handicraft or occupation, husbandman, apprentice, labourer, servant at husbandry, journeyman,

or servant of artificer, mariners, fishermen, watermen, or any serving man, shall play at the tables, tennis, dice, cards, bowls, clash, coyt-ing, logating, or any other unlawful game, out of Christmas, on pain of 20s. for every time, and in Christmas only in their master's house and presence. And no person shall at any time play at bowls in open places out of his garden or orchard, on pain of 6s. 8d. for every time of offending. By *sect. 18*, half the above penalties to go to the King, and half to the prosecutor.

Power of Justices.—By *sect. 16*, all justices finding or knowing any person using unlawful games may commit the offender, till he be bound in such sum as the justices shall think fit, not from thenceforth to use such unlawful game.

And by 2 Geo. 2, c. 25, s. 9, one justice may, on the oath of two witnesses, as well as upon his own view, commit the offender until he shall enter into a recognizance, with sureties, or without, not from thenceforth to play at such games.

By 9 Anne, c. 14, s. 6, any two justices may cause to come before them any person whom they shall have just cause to suspect to have no visible estate, profession, or calling to maintain themselves by, but do for the most part support themselves by gaming. And if such person shall not make it appear that the principal part of his expenses is not maintained by gaming, they shall require of him sufficient securities for his good behaviour for twelve months, and in default thereof shall commit him to the common gaol, there to remain till he find such securities. And (by *sect. 7*) playing, or betting for more than 20s., is a forfeiture of the recognizance.

Power to search for and arrest offenders.—By 33 Hen. 8, c. 9, s. 14, justices of the peace, mayors, sheriffs, bailiffs, and other head officers in every town, may enter all such houses and places where such games (*k*) are suspected to be exercised, and as well the keepers of the same, as the persons there resorting and playing, may arrest and imprison, until such keepers and persons there so found enter into a recognizance not to offend again. And (by *sect. 15*) the head officers in cities and towns are directed to search weekly, or at the furthest once a month, in all places where any such houses shall be suspected to be kept, under the penalty of 40s. for each month they shall neglect to make such search.

And by the Metropolis Police Act, 2 & 3 Vict. c. 47, s. 48, if any superintendent belonging to the metropolitan police force shall report

(*k*) See *ante*, sect. 11, p. 365.

in writing to the commissioners of police, that there are good grounds for believing any house or room, within the metropolitan police district, to be kept or used as a common gaming house, and if two householders dwelling within such district, and not belonging to the metropolitan police force, shall make oath in writing before a magistrate, and annexed to such report, that the premises complained of are reported and believed by them to be so kept or used; the commissioners may by order in writing authorize the superintendent to enter such house or room, with such constables as they shall direct to accompany him, and, if necessary, to use force for effecting such entry, whether by breaking open doors or otherwise, and to take into custody all persons who shall be found therein, and to seize and destroy all tables and instruments of gaming found in such house or premises, and also to seize all monies and securities for money found therein.

Witnesses.—By 18 Geo. 2, c. 34, s. 4, on any information under that act, or the 12 Geo. 2, c. 28, any person (other than the party accused) may be summoned to give evidence, under the penalty of 50*l.*, or imprisonment for six months, in case of his neglect or refusal to appear. And (by *sect.* 5) persons may be witnesses, though they have played, betted, or staked at such prohibited games.

Privilege of Parliament.—By *sect.* 7, no privilege of parliament shall be allowed to any person, against whom any prosecution or proceedings shall be commenced, for keeping any public or common gaming house, or any house, room, or place for playing at any game prohibited by law.

Hard labour.—By 3 Geo. 4, c. 114, persons convicted of keeping a common gaming house may be sentenced to imprisonment, *with hard labour*, for any term for which they might previously be sentenced to imprisonment only.

Prosecution.—By 25 Geo. 2, c. 36, s. 5, two inhabitants of any parish may require the constable to prosecute any person for keeping a bawdy house, *gaming house*, or other disorderly house; for the provisions of which see *ante*, **Bawdy House**.

Lotteries.—By 10 & 11 Will. 3, c. 17, s. 1, all lotteries are declared to be public nuisances.

By *sect.* 2, every person, who shall exercise, expose, open, or show to be played, drawn, or thrown at any lottery, play, or device, either by dice, lots, cards, balls, or any other numbers or figures, or any other

way whatever, besides the penalty of 500*l.* recoverable by action, may be prosecuted as a common rogue.

Keeping offices.—By 8 Geo. 1, c. 2, s. 36, every person, who shall keep any office or place, under the denomination of sales of houses, lands, advowsons, presentations to livings, plate, jewels, ships, goods, or other things, for the improvement of small sums of money; or shall sell, or expose to sale the same, or any of them, by way of lottery, or by lots, tickets, numbers, or figures; or shall make, print, advertise, or publish proposals or schemes for advancing small sums of money by such persons, amounting in the whole to large sums, to be divided among them by the chances of the prizes in some public lottery; or shall deliver out tickets to the persons advancing such sums to entitle them to a share of the money so advanced, according to any proposal or schemes, or shall make, print, or publish any proposal or scheme of the like nature under any denomination whatever,—and shall be thereof convicted, on the oath of *one witness*, by *two justices*, he shall, over and above any other penalty by any former act, forfeit 500*l.*, one-third to the King, one-third to the informer, and one-third to the poor, to be levied by distress, and shall also be committed to the county gaol, for one whole year, and from thence till such sum be paid. But the party aggrieved may appeal to the next quarter sessions.

By 12 Geo. 2, c. 28 (*l*), s. 1, if any person shall erect, set up, continue, or keep any office or place under the denomination of a sale of houses, &c. by way of lottery, or by lots, tickets, numbers, or figures, cards, or dice; or shall make, print, advertize, &c. proposals or schemes for advancing small sums by several persons, amounting in the whole to large sums, to be divided among them by chances of the prizes in some public lottery established by act of parliament, or shall deliver out tickets, &c.; or shall expose to sale any houses, &c. or other goods, by any game, method, or device whatever, depending upon, or to be determined by, any lot or drawing, whether it be out of a box or wheel, or by cards or dice, or by any machine, engine, or device of chance, or of any kind whatever, shall, on conviction by *one justice* (*m*), on the oath of *one witness*, or on the view of such

(*l*) This appears to be the leading act on this subject.

(*m*) The 46 Geo. 3, c. 148, s. 59, declares, that all pecuniary penalties for any offence against any law touching or concerning lotteries, shall be applied to the use of the king, and that no person can

sue for them, unless in the name of the attorney-general in the Court of Exchequer at Westminster. But it would seem, from the decision in *Rex v. Liston*, 5 T. R. 338, that this enactment only extended to state lotteries, and does not repeal the summary jurisdiction of magistrates over

justice, forfeit 200*l.* to be levied by distress; one-third to the informer, and two-thirds to the poor of the parish, except in *Bath*, when the two-thirds are to go to the poor of the hospital for poor persons resorting there for the benefit of the mineral waters.

Penalty on the adventurers.].—By *sect. 3*, all persons, who shall be adventurers in any of such games, lotteries, or sales, or shall play, set at, stake, or punt at either of the games of the ace of hearts, pharaoh, basset, and hazard, shall, on conviction as above, forfeit 50*l.*

What games unlawful.].—By *sect. 2*, the games of the *ace of hearts*, *pharaoh*, *basset*, and *hazard*, are declared to be games and lotteries by cards or dice, within the meaning of the former acts. And every person, who shall set up, maintain, or keep the said games, shall be liable to the penalty under this act.

And by 13 Geo. 2, c. 19, s. 9, the game of *passage*, and every other game with one or more dice, or with any other instrument, engine or device in the nature of dice, having one or more figures or numbers thereon, (backgammon, and the other games now played with the backgammon tables only excepted), shall be deemed games or lotteries, within the 12 Geo. 2, c. 28. And every person, who shall set up, maintain, or keep any office, table, or place for the game of *passage*, or any other such game as aforesaid, shall severally forfeit as in that act.

Commitments, &c.].—By *sect. 8*, in default of distress, or the offender do not, on conviction in any of the above cases, immediately pay or secure the penalty, he may be committed to the common gaol not exceeding six months.

By *sect. 5*, an *appeal* is given to the next sessions; and by *sect. 6*, no conviction shall be set aside for want of form, or be removable by *certiorari*, until judgment be given at the sessions.

Little-goes.].—By 42 Geo. 3, c. 119, s. 1, all games or lotteries, called *little-goes*, are declared common and public nuisances, and against the law.

By *sect. 2*, no person shall publicly or privately keep any office or place to exercise, keep open, show, or expose to be played, drawn, or

offences relating to games of chance or lotteries prohibited by the 12 Geo. 2, c. 28. And yet the terms of the enactment of the 42 Geo. 3, c. 119, s. 2, as to *little-goes*,

are decidedly opposed to this construction, as far as regards the *pecuniary* penalty imposed by that statute.

thrown, at or in, either by dice, iots, cards, balls, or by numbers or figures, or by any other way, contrivance or device whatever, any game or lottery called a *little-go*, or any other lottery whatever not authorized by parliament, or shall knowingly suffer to be exercised, &c. any such game or lottery in his or her house, room, or place, under the penalty of 500*l.*, to be recovered in the Court of Exchequer, at the suit of the attorney-general, to the use of his Majesty. And every person so offending shall be deemed a rogue and vagabond, and shall be punishable accordingly; although (by *sect. 3*) no information may have been brought against him in the Exchequer for recovery of the pecuniary penalty.

Power to search for and apprehend offenders.—By *sect. 4*, upon complaint on oath before any justice of any offence against the act, he may by special warrant under his hand and seal, authorize any person, by day or by night—but if in the night, then in the presence of a constable—to break open the doors, or any part of the house or place where the offence shall have been committed, and to enter therein and seize and apprehend all offenders, and all other persons who shall be discovered therein, and who shall have knowingly aided or assisted, or have been anyways connected with any such offender in committing the offence, and to convey them before a justice. And all persons who shall be discovered in such house or place knowingly aiding, assisting, or anyways concerned with such offenders in carrying on any transaction respecting such *little-goes* or lotteries, or either of them, shall be deemed *rogues* and *vagabonds*, and punishable accordingly. The officer having the execution of the warrant, and all other persons acting in his aid, may arrest and detain all persons so discovered in such house or place.

Penalty for obstructing officers.—By the same section, if any person shall forcibly obstruct, oppose, molest, or hinder the officer, or others acting in his aid, in the due execution of their duty, he shall be deemed an offender against law and the public peace, and the Court before whom he may be tried may order him to be *fin*ed, *imprisoned*, and *publicly whipped*.

Penalty on persons employing others.—By the same section, all persons, although not discovered in such house or place, who shall employ, or cause to be employed, any person in carrying on any of the transactions aforesaid, or in aiding or assisting any such person, shall also be deemed *rogues* and *vagabonds*, and punishable accordingly.

Penalty on persons agreeing to pay money, &c.—By sect. 5, no person shall under any pretence, device, ~~form~~, denomination, or description whatever, promise or agree to pay any sum, or to deliver any goods, or to do or forbear doing anything for the benefit of any person whatever, with or without consideration, on any event or contingency relative or applicable to the drawing of any ticket, lot, numbers, or figures, in any such game or lottery, or to publish any proposal for any of the purposes aforesaid; and if any person shall offend in any of the matters aforesaid, he shall forfeit 100*l*.

Apprehension of offenders, and recovery of penalties.—By sect. 6, any person may apprehend on the spot any person so offending, and convey him before a justice, who may examine into the circumstances of the case, and give judgment accordingly; and where the party shall be convicted of such offence, and the penalty shall not be immediately paid, he may be committed to prison not exceeding six calendar months, nor less than one; one-third of the penalty to be paid to the king, one-third to the informer, and the other third to the person apprehending or securing the offender.

Foreign lotteries.—By 9 Geo. 1, c. 19, s. 4, if any person shall, by virtue or colour of any grant or authority from any foreign prince or state, set up, continue, or keep, or cause, or procure, &c. any lottery, or undertaking in the nature of a lottery, under any denomination whatsoever, or shall make, print, or publish, or cause, &c. any proposal for any such lottery or undertaking, or shall sell or dispose of any ticket in any foreign lottery, and shall be convicted, on oath of *one witness*, before *two justices*, he shall, over and above any penalties by former acts, forfeit 200*l*., one-third to the king, one-third to the informer, and one-third to the poor, to be levied by distress, and shall also be committed to the county gaol for one year, and from thence till the penalty be paid.

By 6 Geo. 2, c. 35, if any person shall sell, promise, or deliver, any ticket, receipt, chance, or number, or division in any foreign, or pretended foreign, lottery, or in any class, part, or division thereof, or in any undertaking in the nature of a lottery, or shall sell, procure, or deliver any ticket, &c. in any duplicate, or pretended duplicate, of any such lottery, or shall receive or cause to be received any money for any such ticket, &c. or in consideration of any money to be paid in case any ticket or number in any such lottery, or any class, part, or division thereof, shall prove fortunate, and shall be convicted in the Court at Westminster, or on the oath of *one witness*

before *two justices*, he is liable to the same penalty and punishment as that inflicted by the ~~last~~ act; but he has a right of *appeal* to the next sessions.

1. *Conviction of an Offender, after being apprehended, for issuing Tickets in a Little-Go, under 42 Geo. 3, c. 119, ss. 5, 6 (n).*

Kent,) Be it remembered, that on the — day of —, in the year of our Lord,
to wit.) 1842, at —, in the county aforesaid, C. D., late of —, labourer, was
apprehended and brought before me, J. P., esquire, one of her Majesty's justices of
the peace in and for the said county of Kent, residing near the place where the offence
hereinafter mentioned was committed, and was then and there charged before me by
the information of one T. S., for that the said C. D., on the — day of —, at —
aforesaid, in consideration that one G. H. had then and there paid to the said C. D.
the sum of £ — of lawful money of Great Britain, promised the said G. H. and then
and there agreed to pay to him the sum of £ — of like lawful money, if a certain
ticket numbered in a certain illegal game and lottery, called a Little-Go, being a lottery
not authorized by act of parliament (o), then and there kept to be played and drawn
at with numbers and figures, should be drawn fortunate. And the said C. D. being
now here present, and having heard the said information and charge, and being asked
what he had to say in his defence, saith that he is not guilty of the same. Whereupon
I, the said justice, did proceed to examine into the truth of the charge contained in the
said information; and one credible witness in this behalf, to wit, T. S., being then and
there duly sworn, upon his oath deposes as follows, in the presence and hearing of
the said C. D., that is to say, [*here set out the evidence, as nearly as possible, in the
words used by the witness*]. And the said C. D. having heard the whole of the evidence
now produced against him, and been asked by me, the said justice, what he had to say
in answer thereto, maketh no defence, nor doth he now offer or produce before me, the
said justice, any evidence (p) to contradict the testimony so given to me in support of
the said information. Whereupon, all and singular the premises being considered, and
mature deliberation being thereupon had, it manifestly appears to me, the said justice,
that the said C. D. is guilty of the offence charged upon him in and by the said in-
formation. It is therefore adjudged by me, the said justice, that the said C. D. be
convicted, and he is hereby convicted of the offence charged upon him by the said in-
formation, according to the form of the statute in that case made and provided; and I
do award and adjudge that the said C. D. hath for his said offence forfeited, and that
he do forthwith pay the sum of 100*l.* (q) of lawful money of Great Britain, to be dis-
tributed and applied in manner following, that is to say, one-third thereof to the use of
our sovereign lady the Queen, one other third thereof to the use of T. S., who hath
informed me of the said offence, and the remaining third part thereof to J. K., by
whom the said C. D. was apprehended, according to the form of the statute in such
case made and provided. Given under my hand and seal, at — aforesaid, in the
county aforesaid, this — day of —, in the year of our Lord, 1842.

(n) See *ante*, p. 370.

(o) See *sect. 2* of the act, *ante*, p. 370.

(p) If the defendant produces any evidence, it should be stated.

(q) This conviction, large as the penalty is, may be by one justice. The statute

27 Geo. 3, c. 1, taking away the jurisdiction of justices as to lotteries, applied only to state lotteries, (see 5 T. R. 338); which have now, happily for the morals of the people, for some years been discontinued.

2. *Commitment on 9 Anne, c. 14, s. 5, for winning by Fraud (r).*

Kent, } To the constable of —, in the county of Kent, and to the keeper of
to wit. } the common gaol at —, in the said county.

Forasmuch as C. D., of &c., is this day charged before me, J. P., esquire, one of her Majesty's justices of the peace in and for the said county, on the oath of A. B., of &c.: For that he the said C. D. on the — day of — instant, at —, in the county aforesaid, by fraud, cozenage, circumvention, and deceit, in playing with dice, unlawfully did win, obtain, and acquire to himself a large sum of money, to wit, the sum of 20*l.* of the monies of the said A. B., against the form of the statute in that case made and provided: These are therefore to require you, the said constable, in her Majesty's name, forthwith to apprehend the said C. D. and him safely to convey and deliver into the custody of the said keeper of the said gaol at — aforesaid: And you, the said keeper, are hereby required to receive the said C. D. into your custody in the said common gaol, and him there safely keep, until he shall be thence delivered in due course of law. Given under my hand and seal, this — day of —, in the year of our Lord, 1842.

3. *Commitment on 18 Geo. 2, c. 34, s. 8, for winning above 10*l.* at a sitting (r).*

[Commencement as in form No. 1]. For that he the said C. D., on &c., at &c., by playing at a certain game of cards, called —, unlawfully did win of and from one A. B., at one time and sitting above the sum of 10*l.*, that is to say, the sum of 15*l.* of the monies of the said A. B., against the form of the statute in that case made and provided: These are therefore &c. [as in form No. 1, to the end].

4. *Commitment for keeping a Gaming House, as for a Misdemeanor at Common Law (s).*

[Commencement as in form No. 1]. For that the said C. D., on &c., at &c., unlawfully and injuriously did keep and maintain a certain common gaming house; which said common gaming house, he the said C. D. did for lucre and gain then and there unlawfully and wilfully cause and procure divers idle and evil-disposed persons to frequent, and then and there to play and game together therein for divers large and excessive sums of money, and did then and there unlawfully and wilfully permit and suffer the said idle and evil-disposed persons to be and remain unlawfully playing and gaming therein as aforesaid for a long time, to wit, for the space of one hour: These are therefore &c. [as in form No. 2, to the end].

GAOL.

WHAT number of Prisons to be maintained.—By 4 Geo. 4, c. 64, s. 2, there must be one common gaol and one house of correction maintained at the expense of every county in England and Wales; and if a county is divided into ridings or divisions having several and distinct commissions of the peace, or several or distinct rates in the nature of county rates, applicable by law to the mainte-

(r) See *ante*, p. 366.

(s) See *R. v. Rogier*, 1 B. & C. 272.

nance of a prison for such division, then there must be one house of correction for each division. And there must be also one gaol and one house of correction maintained in each of the following cities and towns, viz. Bristol, Canterbury, Chester, Coventry, Exeter, Gloucester, Kingston-upon-Hull, Leicester, Litchfield, Lincoln, Liverpool, Newcastle-upon-Tyne, Norwich, Nottingham, Portsmouth, Worcester, and York.

By *sect. 7*, all idle and disorderly persons, rogues and vagabonds, incorrigible rogues, and other vagrants, must be committed only to some *house of correction*.

Appointment and duties of Visiting Justices.—By *sect. 16*, the quarter sessions in every county are required to nominate two or more justices to be visitors of every gaol and house of correction within their jurisdiction, and to report the names and places of abode of such visitors to the Secretary of State. One or more of the visiting justices must personally inspect each prison at least three times in each quarter of a year, and oftener if occasion shall require, and examine into the state of the buildings, so as to form a judgment as to the repairs, additions, or alterations which may appear necessary, strict regard being had to the classification, inspection, instruction, employment or hard labour of the prisoners. They must also examine into the behaviour and conduct of the respective officers, and the treatment, behaviour, and condition of the prisoners, the means of setting them to work, the amount of their earnings, and the expenses attending the prison, and all abuses within the same; and in matters of pressing necessity, and within the powers of their commission as justices, they shall take cognizance thereof, and proceed to regulate and redress the same. And if the visitors shall at any time observe, or be satisfactorily informed of, any extraordinary diligence or merit in any prisoners under their inspection, they shall report the same to the next quarter sessions, in order that the sessions may, if they shall think proper, recommend any offender to the royal mercy, in such degree, or upon such terms, as to them shall seem meet. If his Majesty shall thereupon be graciously pleased to shorten the duration of such prisoner's confinement, such prisoner shall, upon his or her discharge, together with necessary clothing, receive such sum of money for his or her subsistence, as the visiting justices shall think proper, not exceeding twenty shillings, nor less than five shillings, in case such offender shall have been confined for the space of one year, and so in proportion for any shorter term of

confinement; such sums of money, and also the expense of the clothing to be paid out of the county rate. But by *sect. 17*, any other justice, without being appointed a visitor, may enter into and examine any prison, at such time and so often as he shall see fit; and if he shall discover any abuse, he is hereby required to report it in writing at the next quarter sessions or adjourned sessions. Whenever a report of any abuse shall be made, either by the visiting justices, or by any other justice, it shall be taken into immediate consideration by the sessions, who are required to adopt the most effectual measures for inquiring into and rectifying such abuse.

Where Prisoners in close confinement.—By *sect. 18*, no visiting or other justice is authorized to converse or hold any intercourse or communication (except as after mentioned) with any person committed by lawful authority to be kept in safe and close confinement. But any visiting justice may visit and inspect the apartment or place in which such person shall be confined, and also see such person, and hear or receive any representation from him as to his treatment in such prison, and inquire and examine into the same.

Report to Quarter Sessions.—By *sect. 23*, at every quarter sessions the visiting justices shall make a report in writing of the state and condition of each prison within their jurisdiction, of what repairs, additions, or alterations which shall have been made, or may be required, and of any abuse which they may have observed, or of which they may have received information, in the management of the prison, as well as of the general state of the prisoners, as to morals, discipline, employment, and hard labour, and observance of rules.

When the Keeper is removed, &c.—By *sect. 27*, whenever the keeper or any other officer of the prison shall be removed from, or resign his office, he must forthwith quit the possession of the house or apartments, in which he or she shall have previously resided by virtue of his office; and if he shall refuse or neglect to do so for forty-eight hours after notice given to him in writing by the under-sheriff, in case the house or apartments are in the common gaol, and by the clerk of the peace, in case they are in any house of correction, any two justices, upon proof of the above facts, may by warrant under their hands and seals direct the sheriff of the county to eject the keeper and his family. And so, where the keeper dies, his family may be ejected in like manner.

Employment of Prisoners.—By *sect. 37*, any visiting justice may

authorize, by an order in writing, the employment of any prisoners committed for trial, with their own consent, in any such work or labour as can be conveniently executed or done in the prison, and to pay to such prisoners any wages or portion of the same. But no prisoners are to be placed together, on account of such employment, who would otherwise be kept separate. But, by 5 Geo. 4, c. 85, s. 16, the consent of every such prisoner shall be freely given, and shall not be extorted or obtained by deprivation, or threat of deprivation, of any prison or other allowance; and no prisoner, before conviction, shall under any pretence be employed on the treadmill, either with or without his consent.

By 4 Geo. 4, c. 64, s. 38, two visiting justices may order that all persons confined in the prison, in pursuance of any sentence or conviction, except such prisoners as shall maintain themselves, shall be set to some work or labour not severe; and no such prisoner, who shall be of ability to earn, and who shall have the means of earning or of otherwise providing for his own subsistence, shall have any claim to be supported at the expense of the county; but when such ability shall cease, by reason of sickness, infirmity, want of sufficient work, or from any other cause, every such person shall during the continuance of his inability receive such provisions and support, as shall be directed for other convicted prisoners in the same prison. The keeper shall keep an account of the work done by every prisoner, and shall account to him for so much of the net profits which he shall have earned, as shall be directed by the rules and regulations of the prison, or in case of no such provision being made by them, then for so much as shall be directed by the visiting justices, and shall pay the amount of all accumulations of such allowance to such prisoner at his or her discharge.

Allowance to Prisoners discharged.—By sect. 39, any one, or more, of the visiting justices of any prison from whence any prisoner shall be discharged, may direct that such moderate sum of money shall be given to him, where he has not the means of returning to his family or place of settlement, or resorting to any place of employment or honest occupation, as in the judgment of the justice or justices shall be requisite and necessary for such purpose, and such sum of money shall be paid to him by the keeper of the prison. And by 5 Geo. 4, c. 85, s. 22, two visiting justices, upon the application of such prisoner, may take his examination in writing upon oath, as to his last legal place of settlement, and may afford him the means of returning there. And see *post*, 5 Geo. 4, c. 85, s. 23.

Penalty for introducing Spirituous Liquors.—By 4 Geo. 4, c. 64, sect. 40, if any person shall carry or bring, or attempt or endeavour to carry or bring, into any prison any spirituous or fermented liquor, the gaoler, keeper, turnkey, or any other assistant may apprehend the offender and carry him before a justice, who, upon convicting him of such offence, may commit him to the common gaol or house of correction not exceeding three months, unless he shall immediately pay down such sum of money, not exceeding 20*l.* nor less than 10*l.*, as the justices shall impose; one moiety to go to the informer, and the other in aid of the rate applicable to the maintenance of the prison. If any justice shall receive information upon oath, that any spirituous or fermented liquor is unlawfully kept or disposed of in any prison, he may enter and search, or issue his warrant to enter and search, for such liquor; and in case it shall be found, it may be seized and disposed of as the justice may direct. If any gaoler or keeper shall sell, use, lend, or give away, or knowingly permit or suffer to be sold, used, lent, or given away, or brought into the prison any such liquors, he shall, over and above any other punishment, forfeit 20*l.*

Punishment of refractory Prisoners.—By sect. 42, if any criminal prisoner shall be guilty of any repeated offence against the rules of the prison, or of any greater offence than the gaoler or keeper is empowered to punish, the gaoler or keeper shall forthwith report the same to the visiting justices, or one of them, and any one such justice, or any other justice acting in or for the district or place to which such prison belongs, shall have power to inquire upon oath, and to determine concerning any such matter so reported to him, and to order the offender to be punished by close confinement for any term not exceeding one month,—or by personal correction, in the case of prisoners convicted of felony or sentenced to hard labour.

Assisting Prisoners to escape.—By sect. 43, if any person shall convey, or cause to be conveyed, into any prison any mask, vizard, or other disguise, or any instrument or arms proper to facilitate the escape of any prisoner, and shall deliver the same to any prisoner, or to any other person there for his use, without the consent or privity of the keeper, he shall be deemed to have delivered the same, with intent to aid and assist such prisoner to escape, or attempt to escape. And if any person shall, by any means whatever, aid and assist any prisoner to escape, or in attempting to escape, from any prison, whether an escape be actually made or not, he shall be guilty of *Felony*, and is liable to be transported not exceeding fourteen years.

Ordering Repairs.—By *sect. 47*, if any gaol or house of correction shall become unsafe for the custody of the prisoners confined therein, between the several times of holding the general or quarter sessions, any two or more justices, one of whom shall be a visiting justice for the prison, may order such repairs and alterations to be immediately done as may be necessary, and shall report the same to the next quarter sessions, who may order the payment of such sums of money, as shall have been properly expended on such repairs and alterations.

Where immediate removal of Prisoners is necessary.—By *sect. 52*, whenever any contagious disease, or other emergency, shall render necessary the immediate removal of prisoners, and previous thereto it shall be impossible to obtain for such purpose the order of the quarter sessions, the visiting justices may issue an order under their hands and seals to the keeper of the prison to remove such prisoners to any other prison, or other place of confinement within their jurisdiction. By *sect. 53*, every such removal shall be subject to all such restrictions, as to its duration, as is thereby directed; and every such order of the visiting justices shall be laid before the next quarter sessions. But the prisoners confined in the common gaol of any county shall not be removed without the consent of the sheriff; and no removal made under the authority of the act shall be deemed to be an escape, or shall extend to discharge the sheriff, or other officer, from being answerable for the actual escape of any prisoner.

Recovery and Application of Penalties.—By *sect. 69* all fines, forfeitures and penalties imposed by the act, or which shall be imposed by virtue of any rule to be made in pursuance thereof, shall, on conviction of the offender before any one justice, be levied by distress and sale of the offender's goods and chattels, by warrant under his hand and seal, and all such fines, &c., the application whereof is not particularly directed, shall be paid to the treasurer of the county, and be applied in aid of the rate applicable to the purposes of the act. In default of distress, the offender may be committed to the common gaol or house of correction not exceeding six calendar months, nor less than one month.

Proceedings.—By *sect. 70* a general form of conviction is given; and by *sect. 71* an appeal to the quarter sessions.

By *sect. 72* no order or conviction is to be quashed for want of form, or be removable by *certiorari*; nor is any distress to be deemed unlawful for want of form.

Contracts between Borough and County Justices as to maintenance of Prisoners.].—By 5 Geo. 4, c. 85, s. 1, any two justices, having the charge of gaols for any city, town, borough, port, or liberty, may contract with the justices having the charge of any gaol for the county, wherein or whereto such city, &c. is situate or adjacent, for the maintenance of any prisoners; but no contract can be entered into, without an order of the quarter sessions; and all prisoners, who would otherwise be committed to the prison of the city, may be then committed to the prison contracted for.

By *sect. 4*, if the justices of any city &c. shall deem it more advisable to raise money in aid of enlarging a county prison, than altering or building any prison for their separate use, they may contract with the county justices for that purpose.

By *sect. 7* the chief magistrate of every city, &c. is to report to the secretary of state as to any contracts with counties for the use of prisons; and to transmit a copy of all regulations for the government of every prison, and a return, as in the schedule annexed to the act.

The county justices may also, by the 6 & 7 Will. 4, c. 105, s. 1, contract with the council of a borough in which there is a sufficient gaol, for the commitment of county prisoners thereto.

Passes and Allowances to discharged Prisoners.].—By 5 Geo. 4, c. 85, *sect. 23*, the sessions are to cause proper forms of passes to be engraven or printed, according to the form in schedule (B.) annexed to the act, which are to be issued to the keepers of the prisons within their respective counties for the use of the visiting justices, whenever any prisoner discharged from, or about to be discharged from prison, shall apply to be furnished with the same. The visiting justices may, if they shall deem it expedient, fill up the blanks in every such pass, and certify the same, and make out a route in the proper column, for the purpose of each such prisoner, and for the child or children, if any, of each such prisoner, specifying the place to which such prisoner and such child or children is or are going, and the time to which the said pass is (except in cases of sickness or unavoidable accident) limited; in order that such prisoner may receive such allowances as are authorized by the act, not exceeding one penny halfpenny per mile for such prisoner, and one penny per mile for each child, which, from being in a state of nurture, or without other protection, may have been confined in prison with such prisoner. By *sect. 24*, upon the production of such pass to any overseer of any place through which the prisoner shall proceed, he shall pay to him the allowance specified out of the poor rate for the number of miles

to the next city, town, or place, to which he may be going; which money is (by *sect. 25*) to be repaid to the overseer by the county treasurer.

Commitment to House of Correction.—By 5 & 6 Will. 4, c. 38, s. 3, any justice, or coroner, acting within their several jurisdictions, may commit for safe custody to any house of correction situate near to the place where the assizes and sessions are intended to be holden, any person charged before them with any offence triable at such assizes or sessions.

Penalty for obstructing Inspectors of Prisons.—By *sect. 8*, if any person shall knowingly and wilfully obstruct any inspector of prisons appointed under that act, such person shall, on conviction before a justice, forfeit not exceeding 20*l.*, and, in default of payment, be immediately, or within such time as the justice shall appoint, committed to prison not exceeding one calendar month. And by *sect. 9*, any justice, on complaint made to him against any person for such offence, may issue his summons for the appearance of such person.

What Prisons included in the above enactment.—By 2 & 3 Vict. c. 56, s. 1, all the above mentioned acts are declared to extend to every gaol, house of correction, bridewell, and penitentiary in England and Wales, then or thereafter to be provided, and not exclusively used for the confinement of debtors, except the Queen's Bench and Fleet prisons, and the General Penitentiary at Milbank. New rules and regulations are also made relating to the *classification* of prisoners.

Penalty for introducing Articles not allowed by the Rules of any Prison.—By *sect. 22*, if any person shall carry or bring, or attempt or endeavour, by throwing over the walls, or any other means, to introduce into any prison any letters, tobacco, or other articles not allowed by the rules of such prison, any person may apprehend him, and carry him before a justice, who, on conviction of the offender, may commit him to the common gaol or house of correction, with or without hard labour, not exceeding one calendar month, unless he shall immediately pay down not exceeding 5*l.*, nor less than 40*s.*; which fine is to be applied towards the expense of the maintenance of the prison.

By 3 & 4 Vict. c. 56, s. 2, some new regulations are made respecting the confinement of debtors and persons convicted of misdemeanors.

SCHEDULE (B.) referred to by stat. 5 Geo. 4, c. 85, s. 23.

Certificate, Route, and Description of discharged Prisoners.

Whereas, by the act of parliament of the 5 Geo. 4, c. 85, prisoners discharged from prison may, upon application to the visiting justices of such prison, become entitled to certain allowances from the overseers of the poor of any place through which they may pass on their way to the places of their settlement, under authority of a route and certificate of two such visiting magistrates; and whereas A. B., corresponding in appearance to the account he [or "she"] gives of himself [or "herself"] to the description after mentioned, has come before us, two of the visiting justices of the county gaol [or "house of correction"] at —, and is deemed by us to be a fit object to receive the regulated allowances under the said act: This is to certify the same, and to require the overseers of the poor of the places mentioned in the route, to issue to the said discharged prisoner the allowance specified in the said route, as required by the said act of parliament: provided that the discharged prisoner produces the said route himself [or "herself"], and that the description corresponds with his [or "her"] appearance, and agrees with the account he [or "she"] gives of himself [or "herself"], and the number of children he [or "she"] has with him [or "her"]. Given under our hands and seals, this — day of — 1842.

{ Seals and signatures of the
magistrates.

This pass to be in force for — days from the date hereof.

N. B.—To prevent frauds, all parish officers are not to give the allowances granted by the aforesaid act, under the authority of any other form of pass than this, which is prescribed in the schedule of the act of parliament aforesaid.

Route for A. B. from — in the County of —, to —, in the County of —.

A.	B.	C.	D.	E.	REMARKS.
Names of Places through which the discharged prisoner is to travel.	Rate per mile for the discharged prisoner and children, if any.	Distance of place where relief is advanced, to that where it is to be continued.	Sum paid by each overseer.	Signature of each overseer paying the discharged prisoner.	
Total amount paid.....£			—		

Directions for filling up these Passes.

The magistrate is to fill up the description, and to insert in the column marked A.

the names of the places through which the discharged prisoner is to travel ; and in the column marked B. (in words) the allowance per mile which he (or she) is to receive ; and also to write the number of children (in words) in the proper column, in the following form ; and when there are no children to strike out that part of the form. In case of any mistake, the magistrate should make the necessary alteration with a pen, and write his name opposite thereto.

* The overseer of the poor will insert in the column marked C. the distance of the place to which he advances the allowance ; in that marked D. the sum he gives the discharged prisoner ; and in that marked E. will sign his own name specifying the parish for which he acts. He is also to take before a magistrate any person that presents a pass in which there are alterations other than with the pen as above directed.

Description of the Discharged Prisoner.

Prisoner's name.	His (or her) age.	His (or her) height.		Colour of his (or her)			His (or her) dress.	Number of children.			
		Feet.	Inches	Hair.	Eyes.	Complexion.		Boys.	Ages.	Girls.	Ages.

Memorandum for the Guidance of the Overseers of the Poor, Treasurers of Counties, and Keepers of Prisons.

Each overseer is to take a receipt from the discharged prisoner, signed with his [or "her"] name or mark, and he is to be reimbursed the money paid by the treasurer of the county in which he serves the office of overseer, on giving him a receipt for the same, together with the discharged prisoner's receipt. The overseer, who makes the last advance to carry the discharged prisoner to his place of residence, is to send the certificate, route, and pass to the keeper of the prison from which the prisoner was discharged ; and the said keeper shall make and sign a declaration in the form herein next after annexed ; which said declaration shall be attested by one visiting justice of the said prison.

Declaration of the Keeper of the Prison.

I, A. B., keeper of the county gaol [or "keeper of the house of correction," or "prison,"] at —, in the county of —, do declare that this pass hath come to me, without cover [or "in a cover open at the sides,"] and without any paper or thing inclosed therein, and without any writing, other than the matter of such pass, and than the superscription upon the same, or upon the cover thereof.

(Signed) A. B.

I, C. D., one of the visiting justices of the said prison do attest, that after due examination, I do believe the aforesaid declaration to be true.

Dated this — day of —.

C. D.

Conviction on 4 Geo. 4, c. 64, s. 40, for carrying Spirituous Liquors into a Prison (t),

Kent, } Be it remembered, that on &c., at &c., A. B. is convicted before me, to wit. } J. P., esquire, one of her Majesty's justices of the peace in and for the county of —, for that the said A. B., on &c., at &c., in contravention of the existing rules established by law for the management of prisons in England and Wales, did unlawfully bring into a certain prison, to wit, the common gaol at — in and for the county of — certain spirituous and fermented liquors, to wit, two quarts of gin, contrary to the form of the statute in such case made and provided. And the said A. B. is for the said offence adjudged by me, the said justice, to forfeit and pay immediately the sum of 10*l.*, or else to be imprisoned in — for the space of — [not exceeding three] months. Given under my hand and seal, the day and year first above mentioned.

Gardens.

And see *Trees*.

STEALING from.]—By 7 & 8 Geo. 4, c. 29, s. 42, if any person shall steal or destroy, or damage with intent to steal, any plant, root, fruit, or vegetable production, growing in any *garden, orchard, nursery ground, hothouse, greenhouse, or conservatory*, every such offender, being convicted thereof before a justice, shall, at the discretion of the justice, either be committed to the common gaol or house of correction, with or without hard labour, not exceeding six calendar months, or else shall forfeit, over and above the value of the article stolen, or the amount of the injury done, any sum not exceeding 20*l.* If any person so convicted shall afterwards commit any such offence, the offender is guilty of *Felony*, punishable in the same manner as in the case of simple larceny.

Stealing Vegetable Productions not growing in Gardens, &c.]—By *sect. 43*, if any person shall steal or destroy, or damage with intent to steal, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land open or inclosed, not being a garden, orchard, or nursery ground, every such offender, being convicted before a justice, shall either be committed, with or

(t) See *ante*, p. 378. The above form of conviction is given by the 70th section of the act.

without hard labour, not exceeding one calendar month,—or shall forfeit, over and above the value of the articles stolen, or the amount of the injury done, not exceeding 20s., and in default of payment shall be committed as aforesaid not exceeding one calendar month. For a second offence, he is liable to be committed to hard labour not exceeding six calendar months; and if such subsequent conviction shall be before two justices, they may further order the offender, if a male, to be once or twice publicly or privately whipped, after the expiration of four days from the time of such conviction.

For the provisions under this act, as to the apprehension of offenders, &c., and the proceedings on summary conviction, see *ante*, title *Beer*.

Malicious mischief to Plants in Gardens, &c.—By 7 & 8 Geo. 4, c. 30, s. 21, if any person shall unlawfully and maliciously destroy, or damage with intent to destroy, any plant, root, fruit, or vegetable production, *growing in any garden, orchard, nursery ground, hothouse, greenhouse, or conservatory*, every such offender, being convicted before a justice, shall, at the discretion of the justice, either be committed, with or without hard labour, not exceeding six calendar months,—or shall forfeit, over and above the amount of the injury done, not exceeding 20l. For a second offence, the party is guilty of *Felony, punishable with Transportation for life, or not less than seven years, or imprisonment not exceeding four years, with or without whipping*.

To Plants not in Gardens, &c.—By sect. 22, if any person shall unlawfully and maliciously destroy, &c. any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land open or inclosed, *not being a garden, orchard, or nursery ground*, the offender, being convicted before a justice, shall either be committed, with or without hard labour, not exceeding one calendar month,—or shall forfeit, over and above the amount of the injury done, not exceeding 20s., and in default of payment be committed as aforesaid not exceeding one calendar month. For a second offence, commitment to hard labour not exceeding six calendar months; and if the conviction is before two justices, they may order the offender to be once or twice whipped after four days from the conviction.

For the proceedings on summary conviction, and the general provisions of the last statute, see title *Mischief*.

1. *Conviction for stealing Plants from a Garden, under the 7 & 8 Geo. 4, c. 29, s. 42 (s).*

Kent, } Be it remembered, that on &c., at &c., C. D. of &c., is convicted
to wit. } before me, J. P., esquire, one of her Majesty's justices of the peace for the county aforesaid, for that he the said C. D. on &c., at the parish of — in the said county, did unlawfully steal, take, and carry away two plants called pinks, and two other plants called carnations, the property of A. B. of &c., and then and there growing in a certain garden of the said A. B., situate and being at — in the parish aforesaid, and did then and there also destroy and damage divers, to wit, six other plants and roots of the said A. B. then and there also growing in the said garden, with intent to steal the same, against the form of the statute in such case made and provided. Wherefore I, the said justice, do adjudge that the said C. D. shall, for his said offence, be committed to the house of correction at — in the said county, for the space of three calendar months, there to be kept to hard labour. Given under my hand and seal this — day of —, in the year of our Lord 1842 (t).

2. *Conviction for stealing Vegetable Productions not growing in Gardens, under sect. 43 (u).*

Kent, } Be it remembered, &c. [as in form No. 1.] For that he the said
to wit. } C. D. on &c., at the parish of — in the said county, did unlawfully steal, take, and carry away divers, to wit, twelve cultivated roots used for the food of man, called turnips, the property of A. B. of &c., which said roots were then and there growing in certain inclosed land of the said A. B., not being a garden, orchard, or nursery ground, situate and being at — in the parish and county aforesaid, against the form of the statute in such case made and provided: Wherefore I, the said justice, do adjudge the said C. D. for his said offence to forfeit and pay the sum of 20s., and also to pay the sum of — for costs: and in default of immediate payment of the said sums, to be imprisoned (v) in the house of correction at — in the county aforesaid, and there to be kept to hard labour for the space of one calendar month, unless the said sums shall be sooner paid: And I direct that the said sum of 20s. shall be paid to E. F., one of the overseers of the parish aforesaid in which the said offence was committed, to be by him applied according to the directions of the statute in that case made and provided; and I order that the said sum of — for costs shall be paid to the said A. B. Given under my hand and seal this — day of —, in the year of our Lord 1842.

Gas Companies.

PENALTY for permitting Gas to escape.]—By 3 & 4 Will. 4, c. 90, s. 48, (for lighting and watching the several parishes in England and Wales), whenever any gas is found to escape from any pipe, the

(s) See *ante*, p. 384. This form of conviction is given by the statute;

(t) For the form of the commitment on this conviction, see *ante*, p. 179, form 4.

(u) See *ante*, p. 384.

(v) For the forms of the warrant of distress and commitment under this conviction, see *ante* **Distress**, p. 235.

company, or other persons supplying the gas, are required at their own expense, immediately after receiving notice thereof at their office or usual place of transacting their business, to take the most speedy and effectual measures to prevent such gas from escaping, and in case they do not effectually do so within twenty-four hours after such notice, and wholly and satisfactorily remove the cause of complaint, they are liable to a penalty not exceeding 5*l.* for every day after the expiration of the twenty-four hours from giving such notice, during which the gas shall be suffered to escape; which penalty is recoverable in a summary way, on the oath of *one witness* before *two justices*, together with all reasonable charges, by distress.

For suffering the Washings or Refuse to flow into any River, &c.]—By *sect. 50*, if any Gas company, or other persons supplying gas, shall empty, drain, or convey, or cause or suffer to run or flow, any washings or other waste liquids, substances, or things whatsoever, which shall arise or be made in the process of making or procuring the gas, into any river, brook, or running stream, reservoir, canal, aqueduct, water-way, feeder, pond, or spring-head, or well, or into any drain, sewer, or ditch communicating with any of them, or shall do, or cause to be done, any annoyance, act, or thing to the water contained in any of them, whereby the water, or any part thereof, shall or may be spoiled, fouled, or corrupted,—the offenders incur a forfeiture of 20*0l.*, recoverable with full costs in any court of law. But, besides this penalty, if notice in writing of the nuisance shall be given to such Gas company, or other persons so offending, or to their clerk, or any person in their service or employ, and they shall not within twenty-four hours afterwards stop and hinder or prevent such nuisance, then they are liable to a penalty of 20*l.* for every day the nuisance is continued, recoverable as any other penalty under the act, and payable to the informer, or to the person who in the judgment of the convicting justices shall have sustained any annoyance, injury, or damage by the nuisance.

For breach of Regulations in laying down Pipes.]—By *sect. 51*, all the pipes used for the conveyance of gas must be laid at the greatest practical distance,—and whenever the width of the carriage way will allow, at the distance of four feet at the least,—from the nearest part of any water pipe, except in cases where it shall be unavoidably necessary to lay the gas pipes across any of the water pipes, in which case the gas pipes shall be laid above the water pipes at the greatest practical distance, and shall form therewith a right

angle, and be at least nine feet in length, so that no joint of any gas pipe shall be nearer to the water pipe than four feet, at least. In laying down the gas pipes, the contractors, or other persons supplying the gas, shall in no case join two or more gas pipes together previous to their being laid in the trench, but shall lay each pipe as near as may be in its place in the trench, and there form the jointing with the other pipes to be added thereto with proper and sufficient materials, and shall also make and keep all such pipes, and all others communicating therewith, and all the screws, joints, inlets, apertures, or openings therein air-tight, and in all and every respect prevent the gas from escaping therefrom,—under the penalty of 5*l.* for every offence.

For contaminating the Water Pipes.—By sect. 52, whenever the water of any water company shall be contaminated by any of the gas, the gas company shall forfeit 20*l.*, to be applied to and for the use of the water company. And whenever the water shall be so contaminated, then the gas company shall, within twenty-four hours after notice in writing signed by any officer of the water company, or by any person making use of such water, to be left at the usual place or office of transacting the business of the gas company, cause the most proper and effectual measures to be taken to stop and prevent the gas from escaping, or contaminating the water. And in case the gas company shall not, within twenty-four hours after such notice, effectually stop and prevent the gas from escaping, and wholly and satisfactorily remove the cause of such complaint, they are liable, over and above the before mentioned penalty of 20*l.*, to a forfeiture of 10*l.* for every day the water shall be affected by the gas, recoverable, with costs, by the treasurer or other officer of the water company, or by any one of the directors, on the oath of *one witness*, before *two justices*, to be levied by distress, and to be paid over to the use of the water company.

Power to ascertain if the Water be contaminated.—By sect. 53, in case it shall become a question upon such complaint, whether the water be contaminated by the gas, or not, the water company may dig to and about, and search and examine the mains, pipes, &c. of the gas company, for the purpose of ascertaining the fact. And if it shall appear that the water has been contaminated by any escape of gas, the expense of the examination, and of the repair of the pavement, shall be paid by the gas company, to be ascertained by the justices, and recoverable as any penalty under the act. But if the

contrary shall appear, then the water company shall bear such expense, and shall make good any loss, injury, or damage occasioned to the mains, pipes, &c. of the gas company, to be ascertained in like manner by the justices.

For obstructing the Surveyor of the Commissioners of Sewers.—By *sect. 74*, any surveyor of the commissioners of sewers may, at any time in the daytime, enter any building belonging to a gas company, or to the inspectors appointed under the act, in order to examine if there be any escape of gas, or any washings, or other waste liquids, substances, or other things whatsoever produced in the manufacture of the gas, into any public sewer or drain; and if the surveyor is refused admittance, or, on being admitted, shall be obstructed in making such examination, the gas company, or inspectors, so offending, shall forfeit 20*l*.

Recovery and application of Penalties.—By *sect. 62*, general forms of the information and conviction(x) are given; and by *sect. 63*, all penalties (the manner of recovering which is not particularly directed) may be recovered, with costs, in a summary way before *two justices*, and be levied by distress; and, where not directed to be otherwise applied, shall be paid to the inspectors appointed under the act, or their treasurer, to be applied for such purposes of the act as they shall direct,—except where the penalty is incurred by the inspectors themselves, and in that case it is to be paid to the informer. In default of distress, commitment to hard labour not exceeding six calendar months.

Witnesses.—By *sect. 65*, inhabitants of parishes are declared competent witnesses.

Appeal.—*Sect. 66*, gives an appeal to the sessions, holden within four calendar months after the cause of complaint, or if the sessions are held before one calendar month, then the appeal to be made to the second succeeding sessions, provided the party appealing gives fourteen days notice in writing of his intention to the respondent party, and within five days afterwards enters into a recognizance, with sufficient sureties, to try the appeal.

By *sect. 70*, no proceeding shall be quashed for want of form, or be removed by *certiorari* or any other process.

Where the Act is not to extend.—By *sect. 72*, nothing in the act shall interfere with the 10 Geo. 4, c. 44, the Metropolitan Police Act,

(x) See post, *Lighting and Watching*.

or extend to any parish regulated under the provisions of any act of parliament for all the purposes provided for by such act, or shall interfere with the powers of any corporate body, as to watching or lighting.

—◆—
Gates—See Fences.

—◆—
Good Behaviour—See Surety.

—◆—
Gorse—See Arson.

—◆—
Greenhouse—See Gardens.

—◆—
Greenwich Hospital.

PAWNING or *Embezzling Clothes, &c.*—By 10 Geo. 4, c. 25, s. 40, if any pensioner, or other person, shall unlawfully take in pawn, buy, exchange, or receive any clothes, linen, stores, or other goods or articles marked, stamped, or branded under the directions of that act, and not previously obliterated or defaced by order of the commissioners,—such mark, stamp, or brand to be sufficient evidence, without further proof, that the articles are the property of the commissioners; or if any pensioner, or other person, shall cause such mark or stamp to be taken out, obliterated, or defaced from any of the clothes or articles belonging to the hospital; or shall knowingly or unlawfully pawn, sell, or dispose of, or if any pawnbroker or other person shall knowingly and unlawfully take in pawn, buy, exchange, or receive any clothes or other articles belonging to the hospital; or if any person shall secrete, embezzle, or not duly account for the same, whether marked or unmarked, such articles having been entrusted or delivered to him for any purpose whatsoever; the offender shall forfeit not exceeding 20*l*.

Recovery and application of Penalties.—By sect. 41, the above penalty is recoverable on summary conviction, under the provisions of the 3 Geo. 4, c. 23, for facilitating summary proceedings before justices of the peace, and the 5 Geo. 4, c. 18 (*y*), for the more effec-

(*y*) Neither of these two acts specifies on this subject in the above act of 10 Geo. whether the conviction is to be by *one* 4, c. 25. justice, or *two*, nor is there any provision

tual recovery of penalties on summary conviction; for which see *ante*, *Conservation*, p. 194, and *Distress*, p. 233.

Gunpowder.

WHERE *unlawful to make it.*—By 12 Geo. 3, c. 61, s. 1, no person shall use, or caused to be used, any mill or other engine for making gunpowder in any place, except in mills and other places where the manufacture of it was then carrying on, or where it should afterwards become lawful to carry it on by licence as directed by the act, on pain of forfeiting all the gunpowder, and 2s. for each pound thereof.

What mode of making unlawful.—By sect. 2, no person shall, for the making of it, use any mill or engine worked with a *pestle*, commonly called a *pestle mill*, under the like penalty.

What Quantity may be made.—By sect. 3, no person shall make at any one time under any single pair of millstones any quantity exceeding forty pounds, under the like penalty.

How much dried at once.—By sect. 6, no person shall dry at any one time, in any one stone or place, any quantity exceeding forty cwt., on pain of forfeiting all above that weight, and 2s. for each pound.

What Quantity may be kept by the maker.—By sect. 7, no person shall keep in any place used in making gunpowder, or in any building adjoining or belonging thereto, (except magazines or storehouses constructed with stone or brick, and situate fifty yards at least from the gunpowder mill,) any greater quantity than shall be necessary for the immediate work then carrying on, under the same penalty.

To be removed to Magazines.—By sect. 8, every manufacturer shall, besides the magazines near the mill, have a good and sufficient magazine remote from the mill, for the purpose of receiving all the gunpowder made at the mill, as soon as it can be conveniently removed there, which shall be built with brick or stone near the river Thames and below *Blackwall*, or in some other convenient place, to be licensed by the justices as after-mentioned,—on pain of forfeiting 25*l.* for every month, and 5*l.* for every day during which he (not being hindered by stress of weather, or other just impediment) shall wilfully neglect or delay removing with due diligence the gunpowder made at the mill.

Keeping Charcoal.—By *sect. 10*, every maker, who shall keep any charcoal within twenty yards of any mill or engine, or of any drying, corning, or dusting house, or magazine or storehouse thereto belonging, forfeits 5*l.* per week.

What Quantity may be kept by Dealers.—By *sect. 11*, no person, being a dealer, shall keep at any one time more than 200 pounds,—and not being such, more than fifty pounds,—in any building or place, (all buildings and places adjoining each other being deemed one,) or on any river or other water (except in carriages loading or unloading, or passing on any river or other water, or detained there by the tide or bad weather) within the cities of London or Westminster, or within three miles of them, or within any other city, borough, or market town, or one mile thereof, or within two miles of any of the royal palaces, or any of the King's gunpowder magazines, or half a mile of any parish church; or in any other part of Great Britain, except in mills or other places then used for the making of gunpowder, and in those where it shall be lawful to make it, or to keep greater quantities by force of that act; on pain of forfeiting all beyond the quantity allowed to be kept, together with the barrels, and also 2*s.* per pound beyond the allowed quantity.

The exception in this section of mills or other places then used for making gunpowder, &c. does not apply to the limits first mentioned in the section, but only “to the other part of *Great Britain*” not within those limits; and therefore an information charging the keeping more than the allowed quantity of gunpowder within the specified limits need not negative this exception (*z*).

But by *sect. 12*, any person may keep, for the use of any mine or colliery, any quantity not above 300 pounds weight, in any magazine or warehouse within 200 yards of such mine or colliery, and not within any of the above limits.

Erection of new Mills.—By *sect. 13*, the sessions may license the erection of new mills and magazines, not being within London or Westminster, or any of the above limits, upon fourteen days' notice of the application being given to the overseer or churchwarden of the place wherein it is proposed to erect such new mill, &c., which notice must be publicly read on the following Sunday in the parish church after divine service. In case of refusal by the sessions, the party applying may (by *sect. 14*) demand a special case for the opinion of the Court of King's Bench.

Limitation as to Penalties.—But by *sect. 15*, no person is liable to any penalty for keeping gunpowder without such licence, in any magazine remote from any mill, then built and used for that purpose, not being within London or Westminster, or any of the above limits, until six calendar months after an adjudication by the justices that the same is dangerous; which adjudication cannot be made, except on complaint by some householder of the place in which the magazine shall be, and after summons of the owner, and examination of witnesses.

Sessions may license new Mills.—By *sect. 16*, the sessions, on application of any maker, may appoint convenient pieces of ground, not being within London or Westminster, or any of the above limits, for the erection of magazines. And if the owner of the land does not agree to sell the land, the value may be ascertained by a jury.

What Quantity may be carried.—By *sect. 18*, no person shall carry at any one time more than 25 barrels by land, or 200 by water, (except in vessels importing or exporting gunpowder, or going coastwise,) which barrels must be close joined and hooped, without any iron about them, and so secured that no part of the powder be scattered, and no barrel to contain more than 100 pounds; and when conveyed by land, it must be entirely inclosed in a leather bag, or a salt-petre bag, and the carriage must have a complete covering of wood, painted cloth, tarpaulin, or wadmilt tilts, over all the gunpowder. If conveyed by water, the vessel must have a close deck, and all the powder must be covered with raw hides or tarpaulins. All gunpowder carried contrary to these regulations may be seized by any person, with the barrels, for his own use; and for the purpose of removing it, he may for twenty-four hours use the carriage or vessel in which it shall be seized, on paying a recompence for the use thereof, and may detain the same in the manner afterwards directed under a search warrant.

A conviction under this section must show by special averment, that the person to whom the gunpowder is adjudged is the person who seized it; for the justices have no jurisdiction to adjudge the forfeiture, unless upon a seizure; and for this purpose it should be made to appear, that there was a seizure and a person seizing. It is not enough merely to state in the adjudicating part of the conviction, that the gunpowder is forfeited “to the use of J. G., the person who seized the same” (a).

(a) *R. v. Smith*, 5 M. & S. 133.

Unloading stale Gunpowder.—By *sect. 19*, where any barge or vessel having stale, condemned, or returned gunpowder on board, arrives at the wharf, quay, or other place, where the same is intended to be landed, no person shall begin to unload, or shall bring down to such wharf or place, with intent to load in such vessel, any other gunpowder, until the whole or part of such stale, condemned, or returned gunpowder be first unloaded and carried away from such wharf or other place; and after such unloading, no person shall begin to load, or shall so bring down with intent to load, any greater quantity of other gunpowder, than the part unloaded; on pain of forfeiting all such gunpowder.

Penalty for having combustible matter on board.—By *sect. 20*, if any person having the care or management of any barge, or other vessel, (except ships for importation, exportation, or going coastwise,) loaded with gunpowder, or any other person on board the same, shall bring, have, or use, or permit, &c., any charcoal or other combustible matter, or any fire or lighted candle, or shall smoke or willingly permit any person to smoke, on board the same, he shall forfeit 5*l*.

Carriages or Vessels stopping an unreasonable time.—By *sect. 21*, if any person having the care of any carriage used for the conveyance of gunpowder by land, shall, after beginning to load therein any quantity, or beginning to unload, stop at any place of loading, or suffer any longer time to pass than shall be reasonably necessary; or if any person having the care of any vessel used for the conveyance of gunpowder by water (except as aforesaid) shall, after beginning to load or unload, stop at any wharf or other place of loading, or suffer any longer time to pass than reasonably necessary, not exceeding eighteen hours, unless hindered by the weather; he shall forfeit 10*l*. But (by *sect. 22*) none of these provisions extend to any other carriage or vessel, than such as shall carry more than a hundred weight of gunpowder.

Power to issue Search Warrants.—By *sect. 23*, any justice, on reasonable cause assigned on oath, may issue his warrant for searching, in the day-time, any house, mill, or other place, or any carriage, ship, boat, or vessel, in which gunpowder is suspected to be made, kept, or carried, contrary to the act; and all gunpowder found to be made, &c. contrary to the act, and the barrels, may be seized and removed. In case the seizure is made in any carriage or vessel, it may be used for the purpose of removal, during twenty-four hours after seizure, paying to the owner a sufficient recompence, to be settled by

the justices before whom the complaint shall be heard, and the gunpowder may be detained till it shall be adjudged, on hearing before two justices, whether the same shall be forfeited.

Vessels in the Thames.—By sect. 24, no master of any vessel in the Thames outward bound shall receive on board more than twenty-five pounds of gunpowder (except for the King's service) before the arrival of the vessel at or before Blackwall; and the master of every vessel coming into the Thames shall (except for the King's service) put on shore in proper places all the gunpowder on board above twenty-five pounds, either before the arrival of the vessel at Blackwall, or within twenty-four afterwards, (if the weather permit,) and shall not afterwards have on board more than twenty-five pounds, (except for the King's service,)—on pain of forfeiting all the gunpowder found on board above twenty-five pounds, and the barrels containing the same, and also 2s. for every pound.

Power to search Vessels.—By sect. 25, the Trinity House may appoint searchers, who may, between sun-rising and sun-setting, enter any ship or vessel (except his Majesty's ships) in the Thames above Blackwall, and search for unlawful quantities of gunpowder, with the same powers as before given to persons searching under a justice's warrant.

Recovery of Penalties.—By sect. 26, all penalties are recoverable before two justices, on oath of one witness, half to the King, and half to the informer, and may be levied by distress, in default of which, imprisonment to hard labour not exceeding six months, nor less than three.

By sect. 27, prosecutions to be commenced within fourteen days after seizure of the gunpowder, or the commission of the offence.

By sect. 28, the King's mills and magazines are excepted out of the provisions of the act, and certain other public magazines therein named, and the carriage of gunpowder for the use of the King's forces or the militia.

1. *Information, under 12 Geo. 3, c. 61, s. 11, for keeping more than a certain Quantity of Gunpowder in a house (b).*

Essex, } Be it remembered, that on the — day of —, in the year of our Lord
to wit. { 1842, at — in the county of Essex, A. B., of &c., who, as well for our
Sovereign Lady the Queen, as for himself, doth prosecute in this behalf, personally came
before me, J. P., esquire, one of her Majesty's justices of the peace in and for the said

county, and informed me that C. D., late of the parish of — in the said county, chandler, not being a dealer in gunpowder, within the space of fourteen days (c) now last past, to wit, on the — day of —, in the year aforesaid, within the market town of —, to wit, at the parish of — in the county aforesaid, did keep more than fifty pounds weight of gunpowder, to wit, 100 pounds weight thereof, in a certain shop and building of him the said C. D. there situate, [the (d) said shop not being a mill or other place where it was lawful to make gunpowder, or to keep therein greater or unlimited quantities of gunpowder,] contrary to the form of the statute in such case made and provided; whereby, and by force of the said statute, the said C. D. hath forfeited fifty pounds weight of the said gunpowder, being such part thereof as was over and beyond the quantity allowed by law to be kept, and also one barrel in which the same then was, and hath forfeited also for his said offence the sum of 2s. for every pound weight of the said gunpowder over and beyond the said allowed quantity, that is to say, for fifty pounds weight of the same, amounting in the whole to the sum of 5l.: Wherefore the said A. B., who sueth as aforesaid, prayeth that the said C. D. may be summoned before me to answer the said information, and to be further dealt with according to law.

2. Conviction on the above Information.

Essex, } Be it remembered, &c. [as in the information to the words “contrary to
to wit. } the form of the statute in such case made and provided”]: Whereupon the
said C. D., after being duly summoned to answer the said charge, appeared before me
the said J. P., and W. O., esquire, another of her Majesty’s justices of the peace in
and for the said county, on the — day of —, at — in the said county, and
having heard the charge contained in the said information, declared he was not guilty
of the said offence [or as the case may happen to be]: Whereupon we, the said justices,
did proceed to examine into the truth of the charge contained in the said information;
and now here one credible witness, to wit, E. F., of &c., upon his oath deposeth and
saith in the presence of the said C. D., that within fourteen days next before the said
information was exhibited by the said A. B., to wit, on the — day of —, in the
year aforesaid, at — in the county aforesaid [here state the evidence, and as nearly as
possible in the words used by the witness, and if more than one witness be examined, state
the evidence given by each]: Therefore, it manifestly appearing to us, that he the said
C. D. is guilty of the offence charged upon him in the said information, we do hereby
convict him of the offence aforesaid, and do declare and adjudge that he the said C. D.
hath, for his said offence, forfeited fifty pounds weight of the said gunpowder, being
such part thereof as was over and beyond the quantity allowed by law to be kept, and
also one barrel in which the same then was; and that the said C. D. hath also forfeited
the said sum of 5l., being 2s. for every pound weight of the said fifty pounds weight;
to be distributed according to the form of the statute in that case made and provided.
Given under our hands and seals, the — day of —, in the year of our Lord 1842.

J. P.

W. O.

(c) Sect. 27, ante, p. 395.

(d) It is not necessary to insert the

averment between the brackets. See *R. v. Matters*, 1 B. & Ald. 362, ante, p. 392.

3. *Conviction, under the 24th section, of the Master of a Vessel coming into the Thames, for having more than twenty-five pounds of Gunpowder on board (e).*

Essex, } Be it remembered, &c. [*as in form No. 1. to the words "and informed to wit. 'me'"*] that C. D., late of —, master mariner, within the space of fourteen days now last past, to wit, on the — day of —, in the year aforesaid, being then and there master of a certain ship and vessel called the Aurora, then lately come into the river Thames, and then lying above Blackwall in the said river, had on board of the said ship and vessel more than twenty-five pounds weight of gunpowder, to wit, 100 pounds weight thereof, the said gunpowder not being for her Majesty's service, and the said ship and vessel having arrived at Blackwall aforesaid more than twenty-four hours before the said gunpowder was found on board the said vessel, and the weather being such as to permit the said C. D. during the said twenty-four hours to put the said gunpowder on shore at Blackwall aforesaid, contrary to the form of the statute in such case made and provided: Whereupon the said C. D., after being duly summoned, &c. [*as in form No. 2. to the words "we do hereby convict him of the offence aforesaid"*], and do declare and adjudge that he the said C. D. hath, for his said offence, forfeited seventy-five pounds weight of the said gunpowder, being all the said gunpowder found on board the said vessel above twenty-five pounds weight thereof, and also two barrels in which the same was then contained, and that the said C. D. hath also forfeited the sum of 7l. 10s. of lawful money of Great Britain, being 2s. for every pound weight of the said seventy-five pounds weight of gunpowder above the quantity of twenty-five pounds weight thereof, to be distributed according to the form of the statute in that case made and provided. Given under our hands and seals, &c.

4. *Conviction, under the 18th Section, for carrying more than the proper Quantity at one time (f).*

Essex, } Be it remembered, that on the — day of —, in the year of our to wit. } Lord 1842, at — in the county of Essex, A. B., of &c., personally came before me, J. P., esquire, one of her Majesty's justices of the peace in and for the said county, and informed me that C. D., of &c., within the space of fourteen days before the exhibiting of the said information, to wit, on the — day of —, at — in the county aforesaid, did carry at one time more than twenty-five barrels of gunpowder, to wit, thirty barrels of gunpowder, in a certain waggon by land, contrary to the form of the statute in such case made and provided; and that the said A. B. then and there seized (g) the said gunpowder for the cause aforesaid: Whereupon the said C. D., after being summoned, &c. [*as in form No. 2. to the words "we do hereby convict him of the offence aforesaid"*] and do find that the said A. B. did seize the said gunpowder, and the barrels in which the same was contained as aforesaid; and we do declare and adjudge the said gunpowder and barrels to be forfeited for the use of the said A. B., who hath seized the same as aforesaid, according to the form of the statute in that case made and provided. Given under our hands and seals, &c.

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Gypsies—See Vagrants.
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(e) See *ante*, p. 395. (f) See *ante*, p. 393. (g) See *R. v. Smith*, *ante*, p. 395.

Hackney Coaches, and Metropolitan Stage Carriages.

PENALTY for not specifying certain particulars in *Requisition for Licence*.]—By 1 & 2 Will. 4, c. 22, s. 11, before any licence is granted to keep a hackney coach, a requisition must be signed by the proprietor, or one of the proprietors, of the hackney carriage in respect of which such licence shall be applied for, specifying the Christian name and surname and place of abode of the person applying for such licence, and of every person who shall be a part proprietor of such hackney carriage, or who shall be concerned, either solely, or in partnership, with any other person in the keeping, using, employing, or letting to hire of such hackney carriages, under the penalty of 10*l*.

For not giving notice of change of Abode.]—By sect. 13, when any proprietor shall change his place of abode, he must, under the penalty of 40*s.*, within seven days give notice thereof in writing, signed by him, to the Commissioners of Stamps, specifying in such notice his new place of abode; and at the same time produce such licence to the proper officer at the Stamp Office, who shall indorse thereon and sign a memorandum specifying the particulars of such change.

For not delivering Plates up on the discontinuance of Licence.]—By sect. 17, whenever any person shall give notice at the Stamp Office of his intention to give up his licence, and also whenever any such licence shall be revoked by the commissioners, he must, within three days deliver up the numbered plate mentioned in such licence, or in any indorsement thereupon, under the penalty of 10*l*.

For concealing Plates, or preventing their Number being taken.]—By sect. 20, upon every hackney carriage used for the purpose of standing or plying for hire, or which shall be let for hire, within the distance of five miles from the General Post Office, the Stamp Office plate shall be fixed in a conspicuous place on the outside of the back of such hackney carriage; and there shall also be fixed three other numbered plates to be provided by the proprietor, viz. a plate having thereon the number of the Stamp Office plate, denoted by projecting figures of one inch and a half at least in length, and of a proportionable breadth, and without any other figure, or any letter, or other device thereon, which shall be fixed in a conspicuous place on the inside of the back of such carriage; and two other plates, upon which

there shall be painted (in letters and figures of black upon a white ground) the Christian name and surname of the proprietor, or of one of the proprietors, and the number of the Stamp Office plate, which shall respectively be fixed in some conspicuous place on each side of such carriage, or in such other manner as the Commissioners of Stamps may direct; and every such plate shall be so placed and fixed, that the number thereon shall be at all times plainly and distinctly visible and legible. And if any proprietor, or driver, shall permit or suffer any such plate, or the number thereon, to be in any manner concealed from public view, or to be inverted; or if he, or any waterman, or assistant to the driver, shall molest, or oppose, or by any means endeavour to prevent, any person in or from inspecting any such plate, or in or from taking or noting the number thereof, or shall by word of mouth give or declare to any person a wrong number, he shall forfeit 5*l*.

Using Hackney Coach without a Licence, &c.—By sect. 22, if any person shall keep, use, employ, or let to hire any hackney carriage at any place within the distance of five miles from the General Post Office, without having a licence in force so to do, or without having the proper numbered plates properly placed and fixed thereon; or if any person, to whom any licence shall have been granted, shall not, within one week after notice given to him that the Stamp Office plate hath been recalled, deliver up the plate and produce the licence relating to such plate, and apply for a new plate, and fix such new plate in the manner directed by this act, he shall forfeit 10*l*.

Plying for Hire, without Plates.—By sect. 23, if any carriage shall be used for the purpose of standing or plying for hire as a hackney carriage in any public street or road, at any place within the distance of five miles from the General Post Office, not having the proper Stamp Office plate fixed thereon, the driver of such carriage, or the person plying for hire therewith, or having the care thereof, not being the owner or proprietor thereof, shall forfeit 5*l*.; and if he shall be the owner or proprietor of such carriage, 10*l*. Any constable, or police officer, or officer of stamp duties, without any warrant, may apprehend such driver, or other person, and convey him before a justice of the peace, and the officer may drive or take the carriage, with the horse or horses harnessed thereto or drawing the same, to some public green yard, or livery stables, or place of safety, and there lodge the same for safe custody, until the determination of the justice shall be known. In case the person convicted of any

such offence shall be the owner or proprietor, and the penalty, with the costs and expences, shall not be fully paid within five days, the carriage and horses, together with the harness used therewith, shall be sold by an order under the hand of such justice, to satisfy the penalty, costs and expences. But in case the person so convicted shall not be the owner or proprietor, then in default of payment of the penalty with the costs and expences, such justice shall commit the offender to the common gaol or house of correction for three calendar months; and shall give an order for delivering up the carriage, horses and harness to the owner, on his paying the expences of taking and keeping the same; and in case of his refusal to pay such expences, then such carriage, &c., or a sufficient part thereof to defray such expences, may be sold by order of the justice.

Forging the Stamp Office Plate.—By sect. 25, if any person shall forge or counterfeit, or cause, or procure, &c., the Stamp Office plate, or shall wilfully fix or place, or shall cause or permit, &c., upon any hackney carriage, or other carriage, any such forged or counterfeited plate; or if any person shall sell or expose to sale, or utter, any such forged or counterfeited plate; or shall knowingly, and without lawful excuse (the proof whereof shall lie on the person accused) have or be possessed of the same, knowing such plate to be forged or counterfeited; he shall be adjudged guilty of a *Misdemeanor*, and liable to be punished by fine or imprisonment, or by both, in the common gaol or house of correction, with or without hard labour.

Proprietor must produce the Driver.—By sect. 26, when any information shall be made before any justice against the driver for any offence, the justice shall forthwith summon the proprietor personally to appear, and to produce the driver to answer the information or complaint; and if, after being duly summoned, he shall neglect or refuse personally to appear, or to produce such driver, without a reasonable excuse to be allowed by the justice, he shall forfeit 40s.; and so from time to time as often as he shall be so summoned, until such driver shall be produced. And if such proprietor shall neglect or refuse to appear and produce the driver on the second or any subsequent summons, without a reasonable excuse, the justice may proceed to hear and determine the complaint in the absence of the proprietor and driver, and upon proof of the offence by the oath of one witness, may give judgment against the proprietor for the penalty.

Proprietors to be answerable for Penalty.—By *sect. 27*, all pecuniary penalties and costs incurred by reason of any offence committed by the driver shall, unless such driver shall pay the same, be levied by distress and sale of the goods of the proprietor; and for want of sufficient distress, the proprietor shall be committed to the common gaol or house of correction not exceeding two calendar months.

But by *sect. 28*, the proprietor is entitled to recover such penalties from the driver in a summary manner, on complaint to any justice, who may order the same to be levied by distress and sale; and for want of sufficient distress, he may commit the driver to the common gaol or house of correction, not exceeding two calendar months, with or without hard labour. And if the driver shall have been previously convicted of the offence, for which the penalty or costs shall have been paid by the proprietor, then upon recovery thereof from the driver, the sum so paid by the proprietor shall be repaid to him.

Justice to determine Disputes between Proprietor and Driver.—By *sect. 29*, in case of any dispute between the proprietor and the driver, then upon complaint made before any justice, he may inquire into and determine the same, and award compensation to be made to either party; and in case of the non-payment thereof, the same may be levied by distress; in default of which commitment to the common gaol or house of correction, not exceeding two calendar months.

Watermen.—By *sect. 30*, the Commissioners of Stamps may grant licences to persons to act as watermen, or assistants to the drivers of hackney carriages, at the standings or places of resort where hackney carriages usually stand or ply for hire, every such licence being dated on the day on which the same shall be granted, and specifying the true Christian name and surname and place of abode of the person to whom the same shall be granted, as well as the standing or place of resort at which he shall be thereby authorized to act. And as often as such waterman or assistant shall change his place of abode, notice in writing must be given by him at the Stamp Office, and his licence at the same time be produced, or in default thereof such licence shall be void. If any person shall act as such waterman, or assistant, without first having duly obtained and having in force a licence from the Commissioners of Stamps, he shall forfeit 40s.

By *sect. 31*, the Commissioners of Stamps, at the time of granting

to any person a licence to act as such waterman or assistant, shall deliver to him a badge to denote his office and employment, having thereon a number by which he may be identified, which badge shall be worn by him during all the time of his employment conspicuously upon his breast, so that the number shall be at all times plainly and distinctly visible and legible. If he shall act without wearing such badge, or shall refuse to permit any person to inspect and note the number thereon, or shall lend it to, or permit it to be worn by, any other person, he shall forfeit 40s., and the Commissioners of Stamps may revoke his licence.

Procuring Licence under a false Description.—By sect. 33, if any person applying for, or procuring, or attempting to procure, a licence, shall use or employ any false or fictitious name or place of abode, or other false or fictitious description of any person or supposed person, or shall wilfully or knowingly insert, or cause to be inserted, in any requisition for any such licence, or in any such licence, any false or fictitious name or place of abode, &c., or shall wilfully or knowingly insert, or cause to be inserted, in any such requisition or licence the name of any person as being a proprietor or part proprietor of any hackney carriage, who shall not be such,—the offender is guilty of a *Misdemeanor, punishable by fine or imprisonment, or by both, with or without hard labour.*

What distance Driver compellable to drive.—By sect. 34, the driver shall be obliged and compellable, if required by any person hiring a hackney carriage, (unless such driver shall have a reasonable excuse to be allowed by the justice) to drive to any place within the distance of five miles from the General Post Office, or to any place to which he shall be so required to drive within the distance of five miles from the place where the carriage shall have been let to hire; under the penalty of 40s.

Drivers refusing to go with a Fare.—By sect. 35, every hackney carriage standing in any street or place, and having thereon any of the numbered plates required to be fixed thereon, shall, unless actually hired, be deemed to be plying for hire, although such carriage shall not be on any standing usually appropriated for that purpose, and the driver shall be obliged and compellable to go with any person desirous of hiring such carriage; and, upon the hearing of any complaint against the driver for any such refusal, he shall be obliged to adduce evidence of being actually hired at the time of such refusal, under the penalty of 40s.

Compensation to Drivers, if improperly summoned.—By *sect. 36*, if the driver shall, in civil and explicit terms, declare to any person desirous to hire a hackney carriage that it is actually hired, and shall afterwards be summoned, and shall upon the hearing of the complaint produce sufficient evidence to prove that he was at the time actually and *bonâ fide* hired, and it shall not appear that he used uncivil language, or that he improperly conducted himself towards the party by whom he shall be so summoned, the justice shall order the person who summoned him to make to him such compensation for his loss of time, in attending to make his defence to the complaint, as such justice shall deem reasonable; and in default of payment thereof, he may commit such person to prison not exceeding one calendar month.

Rates and Fares.—By *sect. 38*, the driver is entitled to demand and take, for the hire of every hackney carriage, the rates and fares mentioned in either of the two schedules (B.) and (C.) to the act annexed, calculated for time or distance, at the option of the driver; and being calculated by the hour or mile, only, and not by the day.

Back Fares.—By *sect. 39*, in case any hackney carriage, after being hired at any place, whether within or beyond the limits of the metropolis as defined by the act, shall be discharged at any place beyond such limits, after the hour of eight in the evening, and before five in the morning, the driver may demand, over and above the proper fare in respect of the distance or time, the full rate or fare from the place of such discharge to the nearest point of the said limits, or to any standing where such hackney carriage shall have been hired beyond the said limits, at the option of the person discharging the same. And in case any hackney carriage shall be hired and driven into the country, and there discharged at a distance of four miles, or more, beyond the said limits of the metropolis, in the day-time, and not after the hour of eight in the evening, nor before five in the morning, the driver may demand for the return thereof to the nearest point of the said limits, or to any standing beyond, where such carriage shall have been hired, at the option of the person discharging such carriage, for each and every mile the additional rate or fare of sixpence; but no such additional rate or fare, in the day-time shall be payable for any less distance than four miles.

Limits of the Metropolis.—By *sect. 40*, the limits of the metropolis are defined to be the circumference of a circle, the radius of

which is of the length of three miles measured from the General Post Office.

Refusing to pay Fares, &c.—By *sect. 41*, if any person shall refuse or omit to pay the driver the sum justly due to him for the hire of his carriage, or shall deface or in any manner injure such carriage, a summons or a warrant may be granted against him; and upon proof of the facts upon oath, a justice may award reasonable satisfaction to the party complaining, for his fare, or for his damages and costs, and also a reasonable compensation for his loss of time in attending to make and establish such complaint; and upon the refusal of the party to make such satisfaction, the justice may commit him not exceeding one calendar month, with or without hard labour.

Exacting more than legal Fare.—By *sect. 42*, if the driver shall refuse to go with any person desirous of hiring his carriage, for the legal and proper fare, or shall refuse to drive with all reasonable and proper expedition, or shall exact or demand more than the proper sum, he shall forfeit 40s.

Agreement to pay more not binding.—And by *sect. 43*, no agreement whatever made with the driver for the payment of more than his proper fare shall be binding, but any person may, notwithstanding such agreement, refuse the payment of any sum beyond the proper fare. And in case any person shall actually pay to the driver any sum exceeding his proper fare, which shall have been demanded or required by such driver, the person paying the same shall be entitled, on complaint made before a justice, to receive back the sum so paid, and the driver shall also forfeit the sum of 40s.; in default of payment of which sums the justice may commit him not exceeding one calendar month.

Charging more than the Sum agreed for.—By *sect. 44*, any person may require the driver to drive, for a stated sum of money, a distance in the discretion of such driver; and in case he shall exceed the distance to which the party was entitled to be driven for such stated sum of money, the driver shall not exact or demand more than the sum for which he was so engaged to drive, upon pain of forfeiting 40s.

And by *sect. 45*, if the driver shall agree beforehand with any person, to take for any job any sum less than the proper fare, he shall not exact or demand more than the sum agreed for, upon pain of forfeiting 40s.

Number of persons carried to be painted on the Carriage.—

By *sect. 46*, no carriage shall stand or ply for hire, unless there shall be painted on a plate placed on some conspicuous place on the outside of such hackney carriage, in legible and conspicuous letters of black or white (whichever shall most differ from the colour of the ground whereon the same shall be painted) one inch in length, and of a proper and proportionable breadth, the number of persons to be carried by such carriage, in words at length; and the driver is compellable, if required by the hirer, to carry the number of persons so painted thereon. If any person shall use, employ, or let to hire, any hackney carriage, or shall stand or ply for hire therewith, upon which the number of persons to be carried thereby shall not be so painted, or if the driver shall refuse to carry the number of persons painted thereon, or any less number,—penalty 40s.

Where Driver ordered to wait.—By *sect. 47*, where any carriage shall be hired and taken to any place of public resort, or elsewhere, and the driver shall be required there to wait, he may demand a reasonable sum as a deposit, over and above the fare to which he may be entitled for driving thither; which sum shall be accounted for by him when he shall be finally discharged. If any driver, who shall have received any such deposit, shall refuse to wait at the place where he shall be required, or if he shall go away, or shall permit the carriage to be driven or taken away, without the consent of the person making such deposit, before the expiration of the time for which the sum so deposited shall be a sufficient compensation, according to the rates and fares contained in the schedule; or if, on the final discharge of such carriage, he shall refuse duly to account for such deposit; he shall forfeit 40s.

Check-Strings.—By *sect. 48*, the proprietor shall provide and place a proper check-string or wire, and shall renew the same as often as occasion shall require; and the driver shall, during the time of his driving any person, hold such check-string or wire in his hand, so that the same may be used for the accommodation of such person; under the penalty of 20s.

Property left in any Carriage.—By *sect. 49*, the driver of every carriage, wherein any property whatever shall be left by any person hiring the same, shall, within four days, carry the same in the state in which he shall find it to the Stamp Office, under the penalty of 20l.; and the officer, with whom any such property shall be there deposited, shall forthwith enter in a book the description of such property, and the name and address of the driver who shall bring the

same, and the day on which it shall be brought; and the property shall be returned to the person, who shall prove to the satisfaction of the commissioners that the same belonged to him, upon payment of all expenses incurred, together with such reasonable sum to the driver as, with reference to the value of the property, the commissioners shall award. If such property shall not be claimed by and proved to belong to some person, within one year after the same shall have been deposited, (the same having been advertised in such manner as the commissioners may direct), such property shall be delivered up to the driver, provided he shall apply for the same within one calendar month after the expiration of the year; and in default of such application, the commissioners shall cause it to be sold, or otherwise disposed of, and the proceeds paid over to the Receiver General of Stamp Duties.

Permitting other persons to ride.—By sect. 50, if the driver shall permit or suffer any person to ride, or be carried in, upon, or about any carriage, without the express consent of the person hiring the same, he shall forfeit 20s.

Improper conduct of Driver while on the Stand.—By sect. 51, if any driver shall stand or ply for hire, or suffer the carriage to stand across any street or common passage or alley, or alongside of any other hackney carriage, or two in a breadth, or within eight feet of the curb-stone of the pavement; or if any driver, or any waterman, or other person, shall feed the horses in any street, save only with corn out of a bag, or with hay which he shall hold or deliver with his hands; or if the driver shall refuse to give way, if he conveniently can, to any private coach or other carriage, or shall obstruct or hinder the driver of any other hackney carriage in taking up or setting down any person into or from the same; or shall wrongfully, in a forcible and clandestine manner, take away the fare from any other driver, who, in the judgment of any justice, shall appear to be fairly entitled to such fare; penalty, 20s.

Space to be kept between Carriages.—By sect. 53, after every four carriages which shall be upon any standing, there shall be left a clear space of ten feet; and if the driver of any carriage which shall be next after the fourth, eighth, or twelfth upon such standing, shall suffer his carriage, or the horse or horses attached thereto, to stand or be within the distance of ten feet from the horse or horses attached to the said fourth, eighth, or twelfth carriage, he shall forfeit 20s.

Stands in the City of London.—By sect. 54, the Court of Aldermen are authorized to make orders for regulating hackney carriages in the city of *London*, and in the borough of *Southwark*; and a penalty of 5*l.* is imposed on persons offending against such orders, provided such rules, orders, or regulations, are not in any respect repugnant to or inconsistent with the laws of the realm, or the provisions of this act.

Drivers leaving Carriages unattended.—By sect. 55, if the driver shall leave his carriage unattended in any street or road, or at any place of public resort or entertainment, any officer of police, constable, or other peace officer, watchman, or patrol, may drive it away and deposit it with the horse or horses at some neighbouring livery-stables, or other place of safe custody; and the driver shall forfeit 20*s.* for such offence; in default of payment of which, and of the expenses of taking and keeping the said hackney carriages and horse or horses, the same, together with the harness, may be sold by order of the justice, for the satisfaction of the penalty and all costs and expenses.

Drivers guilty of Drunkenness, furious Driving, &c.—By sect. 56, if the driver shall by intoxication, or by wanton and furious driving, or by any other wilful misconduct, injure or endanger any person in his life, limbs, or property, or if the driver, or any waterman, or assistant to the driver, shall make use of any abusive or insulting language, or be guilty of other rude behaviour to or towards any person whatever, or shall assault or obstruct any officer of stamp duties, or any officer of police, constable, or other peace officer, waterman, or patrol, in the execution of his duty,—penalty, 5*l.*; in default of payment whereof, commitment not exceeding two calendar months; and the Commissioners of Stamps may, if they shall think fit, revoke the licence of any such proprietor, or waterman, or assistant, and refuse to grant him any further licence in future.

Where a Justice may award Compensation to Drivers for Loss of Time.—By sect. 57, if any driver, or any waterman, or assistant, shall be summoned or brought before any justice to answer any complaint, which shall afterwards be withdrawn or quashed, or dismissed, or if the defendant shall be acquitted of the offence charged against him, the justice may order that the complainant shall pay to the driver or waterman such compensation for his loss of time, as to the justice shall seem reasonable; in default of payment of which, commitment not exceeding one calendar month.

Recovery of Penalties relating to Licences.—By sect. 61, all the duties granted by the act, and all fines, penalties, and forfeitures, relating in any manner to the licences required to be obtained for hackney carriages, or to the Stamp Office plate to be fixed thereon, may be sued for and recovered by all such ways and means, summary or otherwise, as are or shall be provided by law for the recovery of any duties, penalties, or forfeitures, granted or imposed by any act relating to stamp duties (*h*), as well as by the particular ways and means provided and directed by this act.

Secretary of State may appoint one Justice to determine Offences.—By sect. 62, the Secretary of State for the Home Department may direct any police magistrate to attend daily from the hour of eleven in the forenoon until the hour of three in the afternoon, at such one of the public police offices of the metropolis, or at any other office or place not being within the city of London, for the purpose of hearing and determining offences against the provisions of this act; and such justice may accordingly hear and determine all such offences in a summary manner, wheresoever the same may have been committed. But any other justice, having jurisdiction where any such offence shall be committed, may in like manner hear and determine the same at any place within his jurisdiction.

Mode of Proceeding.—By sect. 63, any such justice, where no other mode of proceeding is specially directed by the act, may, upon complaint made within thirty days next after the commission of any offence, summon the party accused, and also the witnesses on either side, to appear at a time and place appointed for that purpose; and, either on the appearance of the party accused, or in default thereof, any justice present, at the time and place appointed, may proceed to examine into the matter, and, upon due proof made thereof by oath of *one credible witness*, may give judgment for the penalty, and on nonpayment thereof together with the costs may commit the offender to prison, where such commitment is especially directed by the act,—and, where not so specially directed, the justice may issue a warrant of distress, and in default of sufficient distress he may commit such offender to prison, not exceeding two calendar months. No proceedings to be quashed for want of form, or removed by *certiorari*.

Sale of Goods distrained.—By sect. 64, where any goods distrained, or otherwise seized or taken, under any of the provisions of the act,

(*h*) By 44 Geo. 3, c. 98, all informations for such penalties must be prosecuted in the name of the attorney-general, or of some officer of the Stamp Office.

are directed to be sold, the same shall be sold by public auction, and notice of the time and place of such sale be given to the owner, or left at his last known place of abode, three days at the least prior to such sale. But if the owner shall consent in writing to the sale at an earlier period than that appointed, or in any other manner, the goods may be sold according to such consent; and if the owner, before the sale, pay or tender the sum directed to be levied, together with all reasonable costs and expenses, no such sale shall be made.

By *sect. 65*, all summonses, convictions, and warrants, are to be drawn up according to the forms in the Schedule (D).

Justice may issue either a Summons or Warrant.—By *sect. 66*, upon any complaint against the proprietor or driver, or any waterman or assistant to the driver, the justice may either issue a warrant for his apprehension, or a summons for his appearance, as to the justice shall seem fit.

Default of Witnesses.—By *sect. 67*, if any person, who shall be summoned as a witness shall neglect or refuse to appear at the time and place appointed, without a reasonable excuse,—or, if appearing, he shall refuse to be examined and give evidence, he shall forfeit 5*l*.

Service of Summons.—By *sect. 68*, any summons shall be deemed to be well and sufficiently served on a party, in case either the summons, or a copy thereof, be served personally, or be left at his usual or last place of abode, or (in case such person be a licensed proprietor, or a licensed waterman or assistant) at the place specified in any such licence as his place of abode; and if such place cannot be found, or if the party shall not be known thereat, then the summons, or a copy thereof, may be fixed up in some conspicuous place in the Stamp Office.

Default of Constables.—By *sect. 69*, if any constable or other peace officer shall refuse or neglect to serve or execute any process, he is liable, on conviction before a justice, to a penalty of 5*l*., and in default of payment to be committed for one calendar month.

Mitigation of Penalties.—By *sect. 70*, the justice may mitigate any penalty, provided all reasonable costs and charges in prosecuting for the offence are allowed, over and above the sum to which the penalty shall be mitigated.

Application of Penalties.—By *sect. 71*, all pecuniary penalties, except such as shall be recovered in the city of *London* or the borough of *Southwark*, shall be divided between the King and the informer.

Competency of Witnesses.]—By sect. 72, any informant, or complainant, or other person, is declared to be a competent witness, notwithstanding he may be entitled to any part of the penalty, or to any pecuniary compensation or reward, on the conviction of the offender upon any such information or complaint.

By sect. 73, there is the usual limitation and restriction as to actions.

SCHEDULE (B.)

Containing the Rates and Fares to be paid for any Hackney Carriage hired and taken any Distance.

For every hackney Carriage drawn by two horses :—

For any distance within and not exceeding one mile 1s.

And for any distance exceeding one mile, after the rate of 6d. for every half mile, and for any fractional part of half a mile, over and above any number of half miles completed.

And for every hackney carriage drawn by one horse only, two-thirds only of the rates and fares above mentioned.

SCHEDULE (C.)

Containing the Rates and Fares to be paid for any Hackney Carriage hired and taken for any Time.

For every hackney carriages drawn by two horses : s. d.

For any time within and not exceeding thirty minutes 1 0

Above thirty minutes, and not exceeding forty-five minutes 1 6

Above forty-five minutes, and not exceeding one hour 2 0

And for any further time exceeding one hour, then after the rate and proportion of 6d. for every fifteen minutes completed, and 6d. for any fractional part of the period of fifteen minutes.

And for every hackney carriage drawn by one horse only, two-thirds only of the rates and fares above mentioned.

1. Conviction (i) of a Hackney Coachman, under 1 & 2 Will. 4, c. 22, s. 41, for exacting more than his legal Fare.

Middlesex, } Be it remembered, that on the — day of —, at —, C. D., of
to wit. } &c., was duly convicted before me, J. P., esquire, one of her Majesty's justices of the peace in and for the county of Middlesex, in pursuance of an act passed in the second year of the reign of his late Majesty King William the Fourth, intituled "An Act" &c. [insert the title of the act] for that the said C. D., on the — day of —, at —, in the county aforesaid, he the said C. D. being then and there the driver of a hackney carriage plying for hire in the county aforesaid, did unlawfully exact and demand of A. B. of &c. for the hire thereof more than the proper sum limited and allowed for the same by the said act, contrary to the form of the statute in that case

(i) This form of conviction, as well as the form of the subsequent proceedings, are given by the act, Schedule (D.)

made and provided: For which offence I, the said justice, do adjudge that the said C. D. hath forfeited the sum of 40s., [if the justice mitigate the penalty, then say, "and which sum of 40s. I do hereby mitigate to the sum of —,"] over and above the sum of — for the costs and charges of E. F., the informer, in prosecuting this conviction. Given under my hand and seal, the — day of —, 1842.

2. Warrant of Distress on the above Conviction.

Middlesex, }
to wit. } To A. B. of &c.

Whereas C. D., of &c. has been duly convicted before me, J. P., esquire, one of her Majesty's justices of the peace for the county of Middlesex, for that [here state the offence as in the above conviction], whereby he hath forfeited the sum of 40s. [if the penalty has been mitigated, then add, "and which hath been mitigated to the sum of —"] over and above the sum of — for the costs and charges of E. F., the informer, making together the sum of £—: Therefore I command you to levy the said sum of £—, by distraining the goods and chattels of the said C. D., and by seizing and taking all or any of the carriages, horses, harness, and other things made subject and liable by the statute in that behalf to be seized and taken to satisfy the penalty, costs, and charges aforesaid: And if, within the space of five days next after such distress taken, the said sum of £—, together with the reasonable costs and charges of taking and keeping such distress, shall not be paid, then I order and direct that you shall sell and dispose of the said goods and chattels which shall be so distrained, seized, and taken as aforesaid, and shall levy and raise thereabout the said sum of £—, and all reasonable costs and charges of taking, keeping, and selling such distress, rendering the overplus (if any) to the owner of the said goods and chattels: And you are to certify to me what you have done by virtue of this my warrant. Given under my hand and seal, the — day of —, 1842.

J. P. (L. S.)

One of her Majesty's justices of the peace
for the county of Middlesex.

3. Warrant of Commitment, for want of a sufficient Distress, founded on the foregoing Conviction.

Middlesex, } To A. B. of &c., and to the keeper of the common gaol [or "house
to wit. } of correction"] at —.

Whereas C. D. of &c. has been duly convicted of a certain offence, for that [here state shortly the offence], whereby he hath forfeited the sum of £—, [in case of mitigation, add, "which hath been mitigated to the sum of —"] over and above the sum of — for the costs and charges of the informer, making together the sum of £—: And whereas it has been duly made to appear before me, that no sufficient distress can be found whereon to levy the said sum of £—: Therefore I command you, the said A. B., to apprehend and take the said C. D., and safely to convey him to the common gaol [or "house of correction"] at —, and there to deliver him to the keeper thereof, together with this warrant: And I do hereby command you, the said keeper, to receive into your custody in the said gaol [or "house of correction"] him, the said C. D., and him therein safely to keep for the space of —, unless the said sum of £— shall be sooner paid. Given under my hand and seal this — day of —, 1842.

J. P. (L. S.)

One of her Majesty's justices of the peace
for the county of Middlesex.

4. *Summons to the Proprietor of a Hackney Carriage, to produce the Driver thereof to answer a Complaint or Information.*

To E. F. of —, proprietor of the hackney carriage, No. —.

Whereas complaint [or "information"] hath been made [or "given"] against the driver of the hackney carriage, No. —, on the — day of — now last past, [or "instant"], of which said hackney carriage you were then the proprietor, charging, that the said driver, on the said — day of — now last past, [or "instant"] did [here state the alleged offence] contrary to the form of the statute in that case made and provided: These are therefore to require you personally to appear before me, [or "such other of her Majesty's justices of the peace as shall be present" (j)], at —, on the — day of —, at — of the clock, at the —, and then and there to produce the said driver to answer the said complaint [or "information."] Dated the — day of —, 1842.

(Signed) J. P.

One of her Majesty's justices of the peace
for the county of Middlesex.

5. *Warrant of Distress for levying upon the Proprietor of a Hackney Carriage the Penalty, in which the Driver thereof has been convicted.*

Middlesex, }
to wit. } To A. B. of &c.

Whereas C. D., the driver of the hackney carriage, No. —, on the — day of —, (of which said hackney carriage E. F. was then the proprietor), was duly convicted before me, J. P., esquire, one of her Majesty's justices of the peace in and for the county of Middlesex, for that [here state the offence], whereby he hath forfeited the sum of —, and [in case of mitigation, add, "which hath been mitigated to the sum of —"] over and above the sum of — for the costs and charges of the informer, making together the sum of £—, which hath not been paid by the said driver, nor by any person on his behalf: And whereas, according to the statute in that behalf made, the said E. F., the proprietor of the said hackney carriage, hath been required to pay the said sum of £—, which he hath neglected and refused to do: Therefore I command you to levy the said sum of £—, by distraining the goods and chattels of the said E. F., the said proprietor, and by seizing, &c. [proceed as in the form No. 2, to the end.]

6. *Warrant of Commitment of the Proprietor of a Hackney Carriage, for want of a sufficient Distress whereon to levy the Penalty, on which the Driver of such Hackney Carriage has been convicted.*

Middlesex, } To A. B. of &c., and to the keeper of the common gaol [or "house of
to wit. } correction"] at —.

Whereas &c. [proceed as in the form No. 5, to the words, "which he hath neglected and refused to do," inclusive]: And whereas it hath been duly made to appear to me, hat no sufficient distress of the goods and chattels of the said E. F., the said proprietor,

(j) These words between inverted commas had better be omitted, as the Court of Queen's Bench has lately decided that one justice has no jurisdiction to adjudicate

on a case, where the original information was before another. *Jones v. Gurdon*, Hil. T. 1842.

can be found whereon to levy the said sum of — : Therefore I command you, the said A. B., to apprehend and take the said E. F., and safely to convey him, &c. [*proceed as in the form No. 3, to the end.*]

Hackney and Metropolitan Stage Carriages.

BY 1 & 2 Vict. c. 79, s. 1, reciting that it was expedient that the drivers of hackney carriages, and the drivers and conductors of metropolitan stage carriages in and near the metropolis, and the watermen at standings for hackney carriages, should be licensed, and that further provisions should be made for the regulation of such hackney carriages and metropolitan stage carriages, and the drivers, conductors, watermen, and attendants thereof, the provisions of the above act of 1 & 2 Will. 4, c. 22, are extended to hackney carriages within the meaning of this act,—which includes every stage carriage going to or coming from every place within the limits of the act, that is, every place *within the distance of ten miles from the General Post Office in the city of London, and the whole of every town, village, or hamlet, any part or portion of which shall be within that distance.*

False Representation in applying for Licence.—By *sect. 7*, before any licence is granted to keep any hackney or stage carriage, a requisition for the same in such form as is provided by the registrar under the act, accompanied with such certificate as is required by the act, must be signed by the person to whom such licence is required to be granted, specifying the christian and surname, and place of abode, and age of the party. And if any person so applying shall make, or cause to be made, any false representation in those particulars, or shall not truly answer all questions which shall be demanded of him, in relation to such application for a licence; or if any person to whom reference shall be made in regard to such application, shall wilfully or knowingly make any misrepresentation with the intention of deceiving the registrar; each and every person so offending shall forfeit not exceeding 5*l.*, and any justice, upon proof of any such offence, may revoke the licence.

By *sect. 8*, when any driver, conductor, or waterman shall *change his place of abode*, he must, within two days next after such change, give notice thereof in writing to the registrar, specifying his new place of abode, at the same time producing his licence to the registrar, who shall indorse thereon the particulars of such change; penalty for any default not exceeding 20*s.*

Drivers, &c. not nearing Tickets.—By *sect. 9*, the registrar shall, at the time of granting any licence, deliver to the driver, conductor,

or waterman, to whom the same shall be granted, an abstract of the laws in force relating to such driver, conductor, or waterman, and of the penalties to which he is liable for any misconduct, and also a metal ticket upon which there shall be marked or engraved his office or employment, and a number corresponding with the number which shall be inserted in such licence. Every such driver or conductor, not being a proprietor of a metropolitan stage carriage, must, at all times during his employment and when he shall be required to appear before any justice, wear such ticket conspicuously upon his breast, so that the number thereon shall be distinctly visible and legible; and every driver or conductor, who shall be the proprietor, must carry such ticket about his person. If any driver, conductor, or waterman shall act as such, or shall attend before any justice, without having, and (except where he is a proprietor) without wearing such ticket, or shall refuse to produce it for inspection, or to permit any person to note the number thereon, he shall forfeit not exceeding 40s.

Not delivering up Tickets on expiration of Licence.—By sect. 10, upon the expiration of any licence, the person to whom it shall have been granted shall deliver up such licence, and the ticket relating thereto, to the registrar. If after the expiration of such licence he shall use or wear the ticket, or shall wilfully neglect for the space of three days to deliver the same to the registrar; or if any person shall use or wear, or detain any ticket, without having a licence in force relating to such ticket, or shall, for the purpose of deception, use or wear or have any ticket resembling, or intended to resemble, any genuine ticket; he shall forfeit not exceeding 5*l.*; and any peace officer may seize and take away any such ticket, in order to deliver the same to the registrar.

When Tickets lost or obliterated.—By sect. 11, if any ticket lost or mislaid shall afterwards be found, it must be forthwith delivered up to the registrar; and if any person, into whose possession it shall come, shall refuse or neglect for the space of three days to deliver it up to the registrar; or if any person licensed under the act shall use or wear his ticket, after the number shall be obliterated, defaced, or obscured, so that the same shall not be distinctly visible and legible; he shall forfeit not exceeding 40s.

Forging a Licence or Ticket.—By sect. 12, if any person shall forge or counterfeit, or shall cause or procure to be forged, counterfeited, or resembled, any licence or ticket, or shall sell or exchange, or expose to sale, or utter any such forged or counterfeited licence or

ticket; or shall knowingly, and without lawful excuse (the proof whereof shall lie on the person accused), have or be possessed of such forged or counterfeited licence or ticket, knowing the same to be forged or counterfeited; the offender is guilty of a *Misdemeanor*, punishable by fine or imprisonment, or by both, with or without hard labour. Any person may detain any such licence or ticket, or any peace officer may seize and take away the same, in order that it may be produced in evidence against such offender, or be disposed of as the registrar shall think proper.

Driver's Licence to be retained by the Proprietor.—By sect. 13, if the proprietor of any hackney carriage, or any metropolitan stage carriage, shall employ any licensed person to act as the driver or the conductor, such proprietor shall require to be delivered to him, and shall retain in his possession, the licence of such driver or conductor during such time as he shall remain in his employ; and in all cases of complaint, where the proprietor shall be summoned before a justice to produce the driver or the conductor, he must produce the licence of the driver or conductor; and if any driver or conductor shall be adjudged guilty of the offence alleged against him, the justice may make an indorsement upon the licence, stating the nature of the offence and the amount of the penalty inflicted. If any proprietor shall neglect to require to be delivered to him, and to retain in his possession, the licence of any driver or conductor, during such period as he shall remain in his employ, or shall refuse or neglect to produce such licence, he is liable to a penalty not exceeding 3*l*.

By sect. 14, when any driver or conductor shall leave the service of the proprietor, and shall not have been guilty of any misconduct, the proprietor shall forthwith return to him his licence; but if he shall have been guilty of any misconduct, then the proprietor need not return the licence, but give him notice of the complaint which he intends to prefer against him, and forthwith summon him before a justice; and if it shall appear that the licence has been improperly withheld, the justice may direct immediate redelivery of it, and award such sum of money as he shall think proper to be paid by the proprietor to the driver or conductor by way of compensation.

When Licence may be suspended or revoked.—By sect. 15, the justice, before whom any driver, conductor, or waterman shall be convicted of any offence, whether under this act or any other law, may suspend his licence for any period not exceeding two calendar months. And any two justices, upon proof that any driver, conductor, or waterman has been convicted of felony, or of knowingly re-

ceiving stolen property, or upon the conviction before them for a second offence for wanton or furious or negligent driving, or for detaining property left in any carriage, or for wilfully defrauding his employer, or for refusing or neglecting to attend before any justice when lawfully required so to do, may revoke his licence. Whenever the licence shall be suspended or revoked, the justice may require the proprietor to deliver up such licence, if the same be in his possession, or require the driver, conductor, or waterman to deliver it up, and the ticket relating thereto; and if any party shall refuse, he shall forfeit any sum not exceeding 5*l*. The justice, to whom any licence or ticket shall be delivered up, must forthwith transmit the same to the registrar, who shall, at the expiration of the period for which it shall have been suspended, redeliver it, with the ticket, to the person to whom it shall have been granted.

Persons unlawfully acting as Drivers, &c.—By sect. 16, no driver or conductor shall permit or suffer any other person to act as such, without the consent of the proprietor (except in the cases before mentioned (*h*)), nor shall any person, whether duly licensed or not, act as a driver or as conductor, without the consent of the proprietor. Any police constable, without any warrant, may apprehend any person so unlawfully acting, and convey him before a justice.

Penalty for furious Driving and other Misbehaviour of Drivers.]—By sect. 17, if the driver shall be guilty of wanton or furious driving, or shall by negligence, wilful misbehaviour, or any other misconduct, cause any hurt or damage to any person or property being upon any street or highway; or if any driver, conductor, or waterman shall, during his employment, be intoxicated, or shall make use of any abusive language, he shall forfeit not exceeding 3*l*.; or the justice may, instead of inflicting such penalty, forthwith commit the offender to prison not exceeding two calendar months, with or without hard labour. Where any hurt or damage shall have been caused, the justice may direct and award that the proprietor of the carriage, when the driver has caused the hurt or damage, shall pay such a sum not exceeding 5*l*., as shall appear to the justice a reasonable compensation to the person injured; and every proprietor, who shall thus pay any compensation, is entitled to recover it from his driver.

By sect. 18, if the driver of any hackney carriage shall ply for hire

(*h*) That is (by sect. 5) in the case of sudden illness, or any other unforeseen accident, when any person may be employed not exceeding forty-eight hours after the accident. By the same section,

a penalty of 5*l*. is imposed on any driver, conductor, or waterman, acting as such without a licence, or transferring or lending his licence, or permitting any other person to use or wear his ticket.

elsewhere than from some standing or place appointed for that purpose, or shall by loitering, or by any wilful misbehaviour, cause any obstruction in or upon any public street or road; or if the driver or conductor of any metropolitan stage carriage shall, by loitering, or by any wilful misbehaviour, cause any obstruction in or upon any public street or road, or shall improperly delay such carriage on any journey, or wilfully deceive any person in respect to the rout or destination thereof; or shall, except for the purpose of taking up or setting down a passenger, or except in cases of accident or other unavoidable necessity, stop such carriage opposite to the end of any street, or upon a place where foot passengers usually cross the carriage way, or shall ply for hire or passengers by blowing a horn, he shall forfeit not exceeding 20s.

Disputes between Drivers and Proprietors.—By sect. 19, in case of any complaint or dispute between the proprietor and the driver or conductor, a justice may inquire into and determine the same, and order such compensation to be made to either party as to him shall seem proper.

Proprietor must produce the Driver.—By sect. 21, when any complaint shall be made before a justice against the driver for any offence committed by him within seven days, the justice may summon the proprietor personally to appear, or to produce the driver or conductor, to answer such complaint; and if any such proprietor, being duly summoned, shall neglect or refuse so to do, without a reasonable excuse, he shall forfeit not exceeding 40s. And every proprietor so summoned shall cause notice to be given to such driver or conductor of the time and place when and where he is so required to attend; and if after such notice he shall, without a reasonable excuse, neglect or refuse to attend, or if, having previously left the service of the proprietor, he shall not also produce his licence, he shall forfeit not exceeding 40s. If the proprietor shall neglect or refuse to appear, or to produce the driver or conductor, it will not be necessary to issue a second summons; but the justice may proceed in the absence of either party, and, upon the proof of such offence on the oath of one credible witness, may give judgment against either party.

Proprietors liable for Penalties on Drivers.—By sect. 22, whenever the driver or conductor of any carriage shall have committed any offence against this act, or against the 1 & 2 Will. 4, c. 22, for the commission whereof any penalty is imposed upon such driver or conductor, and not upon the proprietor, and such driver or conductor

shall not appear, or be produced by such proprietor, then, but not otherwise, the proprietor shall be liable to the penalty, but he shall be entitled to recover the same from the driver or conductor in a summary manner before a justice, together with such further expenses as the justice shall think fit.

Justice appointed under the 1 & 2 Will. 4, c. 22, may act.—By sect. 23, any justice appointed by the Secretary of State for the Home Department, under the authority of the 1 & 2 Will. 4, c. 22, s. 62 (1), or such other justice as shall be in attendance at the office appointed in that behalf, may hear and determine any offence against the provisions of this act, or of any other act relating to hackney carriages, or to metropolitan stage carriages, or to watermen.

Mode of proceeding before Justices.—By sect. 24, where no other mode of proceeding is specially provided, any justice, upon complaint of any offence against this act or the 1 & 2 Will. 4, c. 22, within seven days after the commission of any offence, may issue either a summons for the attendance, or a warrant for the apprehension of the offender; and, either on the appearance of the party, or in default thereof, the justice may proceed to hear and determine the matter, and, upon due proof made thereof by oath of one credible witness, may give judgment for the penalty or compensation and costs, and adjudge that the party shall pay the same, either immediately, or within a limited period, and that in default of payment he shall be imprisoned in the common gaol or house of correction, not exceeding two calendar months, or may issue a warrant of distress, and in default of sufficient distress the party may be committed for the same period, with or without hard labour. All proceedings shall be final and conclusive, and shall not be quashed for want of form, nor removed by *certiorari*.

Directions for Sale of Goods distrained.—By sect. 25, where any goods distrained, or otherwise seized, are directed to be sold, the same shall be sold by public auction, and notice of the time and place of sale shall be given to the owner, or left at his last known place of abode, three days at least prior to such sale. But if the owner shall give his consent in writing to the sale in any other manner, such goods may be sold according to such consent; and if before the sale he shall pay or tender the sum directed to be levied, with all reasonable costs, no sale shall be made.

Competency of Witnesses.—By sect. 26, any peace officer, or complainant, or other person, is declared to be a competent witness,

notwithstanding he may be entitled to or expect any part of the penalty or compensation, or any remuneration or reward on the conviction of the offender. But no person shall be convicted, where the *only* evidence against him shall be that of the person who may be so interested, unless, before he shall be sworn to give evidence, he shall give up all claim to any part of the penalty.

Application of Penalties.—By *sect. 27*, one moiety of all penalties is to go in aid of the expenses of police of the district in which the offence shall be committed, and the other moiety, with full costs, to the person who shall inform and prosecute for the same within seven days after the offence committed, unless he shall have given up all claim to the penalty, in which case the whole of such penalty shall go in aid of expenses of the police; or, if the prosecutor be a constable in the metropolitan or the city police, then to the Receiver of the Metropolitan Police Force or the Chamberlain of London for police expenses, or if he be a constable attached to any of the police offices, then to the Receiver of Police.

When Costs and Compensation allowed to Drivers, &c.—By *sect. 28*, if any driver, conductor, waterman, or proprietor, shall be summoned before any justice by any person, other than an officer of stamps and taxes, or any police constable, and such complaint shall afterwards be withdrawn, or quashed, or dismissed; or if the defendant shall be acquitted of the offence charged against him, the justice may order that the informer or person making such complaint shall pay to the defendant such costs of preparing for his defence, and also such compensation for his loss of time, and for the time of his witnesses (if any), as to the justice shall seem reasonable; and in default of immediate payment, the justice may commit such person to the common gaol or house of correction not exceeding one calendar month, or cause the same to be levied by distress, in default of which the party may be committed for the like period.

Service of Process.—By *sect. 29*, any summons or notice required by the act shall be deemed to be well and sufficiently served, if either the summons or a copy thereof, or such notice, be delivered to the husband, wife, or servant, or be left at his usual or last place of residence, or, in case such person be a licensed driver, conductor, waterman, or proprietor, at the place specified in any such licence as the place of abode. If any constable or other peace officer shall refuse or neglect to serve or execute any summons, warrant, or order of any justice, he shall forfeit not exceeding 10*l*.

By *sect. 30*, every summons, conviction, warrant of distress, and commitment may be drawn up according to the following forms contained in the schedule.

1. *Summons, on complaint made for the recovery of a Penalty or Compensation, under the Act.*

County [or as the case may be] of —, }
to wit. } To E. O. of &c.

Whereas complaint hath been this day made by A. B. before me, C. D., esquire, one of her Majesty's justices of the peace for the county of —, for that you on the — day of —, at —, did [*here state the substance of the charge*]: These are therefore, in her Majesty's name, to require you personally to appear before me, the said justice, or such other of her Majesty's justices of the peace for the said —, as shall be setting (m) at —, on the — day of —, at the hour of — of the clock, then and there to answer thereto. Given under my hand and seal this — day of — in the year of our Lord —. C. D.

2. *Conviction on the foregoing Complaint, with Order of Imprisonment on Nonpayment of the Penalty or Compensation.*

County [or as the case may be] of —, } Be it remembered, that on the — day
to wit. } of —, in the year of our Lord —, at —, in the said county of —, [or "city, liberty, or place," as the case may be] A. B. is duly convicted before me, C. D., one of her Majesty's justices of the peace in and for the county of —, [or "city, &c.'], for that he the said A. B. did [*here insert the offence, day, and place*] contrary to the statute in that case made and provided [or "contrary to the orders and regulations made in pursuance of an act passed in the second year of the reign of Queen Victoria, intituled An Act, &c." insert here the title of the act]: I do therefore adjudge the said A. B. to forfeit and pay the sum of — [penalty], and also the sum of — [compensation, if any], and also the sum of — for costs; and in default of immediate payment of the said sums [or if time is given for payment, then say "in default of payment of the said sums on or before the — day of —,"] to be imprisoned in the — [prison], and there to be kept to hard labour [as the case may be] for the space of —, unless the said sums shall be sooner paid: And I do direct the said sum of — [penalty] to be paid to —, to be applied according to the directions of the statute in that case made and provided [or, if penalty and compensation are ordered, then say "the sum of — [penalty] to be paid [as above], and the said sum of — [compensation] to be paid to the party aggrieved,"] and the said sum of — [costs] to be paid to — [party.] Given under my hand and seal the day and year first above written. C. D.

3. *Conviction on the foregoing Complaint, without an Order of Imprisonment.*

County [or as the case may be] of —, } Be it remembered, that on the — day
to wit. } of —, at —, A. B. of &c., was duly convicted before me, C. D., one of her Majesty's justices of the peace for —, in pursuance of an act passed in the second year of the reign of Queen Victoria, intituled

(m) The words in italics had better be omitted. See *Jones v. Gurdon*, ante, 412.

An Act, &c. [title of the act], for that he the said A. B. on the — day of —, did [here state the offence, as the case may happen to be] contrary to the form of the statute in that case made and provided [or “contrary to the orders and regulations made in pursuance of the said act”]; for which offence I do adjudge that the said A. B. hath forfeited the sum of — over and above the sum of —, for the costs and charges of E. F., the informer, in prosecuting this conviction. Given under my hand and seal the day and year first above written.

4. Warrant of Distress founded on the foregoing Conviction.

County [or as the case may be] of —, } To the constable of —, in the — of
to wit. } —.

Whereas E. O. of &c. has been duly convicted of a certain offence, for that [here state the offence as in the conviction], whereby he hath forfeited the sum of —, over and above the reasonable costs and charges of the informer, allowed and assessed at the sum of —: Therefore I command you to levy the said sum of —, and also the said sum of — for the costs and charges aforesaid, making together the sum of —, by distraining the goods and chattels of the said E. O.; and if, within the space of five days next after such distress taken, the said sum of —, together with the reasonable costs and charges of taking and keeping such distress, shall not be paid, then I order and direct that you shall sell and dispose of the said goods and chattels which shall be so distrained, seized, and taken as aforesaid, and shall levy and raise thereout the said sum of —, and all reasonable costs and charges of taking, keeping, and selling such distress, rendering the overplus (if any) to the owner of the said goods and chattels; and you are to certify to me what you shall have done by virtue of this my warrant. Given under my hand and seal the — day of —.

(Signed) —

One of her Majesty's justices of the
peace for the said — of —.

5. Warrant of Commitment for Want of a sufficient Distress, founded on the foregoing Conviction.

County [or as the case may be] of —, } To the constable of —, and to the
to wit. } keeper of the common gaol [or “house of
correction”] at — in the said county.

Whereas E. O. of &c. has been duly convicted of a certain offence, for that [here state the offence as in the conviction], whereby he hath forfeited the sum of —, over and above the reasonable costs and charges of the informer, allowed and assessed at the sum of —, making together the sum of —: And whereas it has been duly made to appear to me that no sufficient distress can be found whereon to levy the said sum of —: Therefore I command you, the constable of —, to apprehend and take the said E. O. and safely to convey him to the common gaol [or “house of correction”] at — in the — of —, and there to deliver him to the keeper thereof together with this warrant: And I do hereby command you, the said keeper, to receive into your custody in the said gaol [or “house of correction”] him the said E. O., and him therein safely to keep for the space of —, unless the said sum of — shall be sooner paid. Given under my hand and seal the — day of —.

(Signed) —

One of her Majesty's justices of the
peace for the said — of —.

6. *Summons to the Proprietor of a Hackney Carriage, or a Metropolitan Stage Carriage, to appear or to produce the Driver or Conductor thereof, to answer a Complaint.*

County [or as the case may be] of —, } To F. E. of &c., proprietor of the hackney
to wit. } carriage, No. —, [or "the metropolitan
stage carriage, No. —."] }

Whereas complaint hath been made by C. D. against the driver of the hackney carriage, No. —, [or "the driver" or "conductor" of the metropolitan stage carriage, No. —,] on the — day of —, now last past, [or "instant,"] charging that the said driver, [or "conductor,"] on the — day of — now last past, [or "instant,"] (of which said carriage you were then the proprietor), at or about the hour of —, did [here state the alleged offence]: These are therefore to require you personally to appear before me, [or such other of her Majesty's justices of the peace as shall be present (n),] at — on the — day of —, at — of the clock, in the — noon, or then and there to produce the said driver [or "conductor"] to answer the said complaint. Dated the — day of —.

(Signed) J. P.

One of her Majesty's justices of the peace for —.

7. *Warrant of Distress for levying upon the Proprietor of a Hackney Carriage, or Metropolitan Stage Carriage, the Penalty in which the Driver or Conductor thereof has been convicted.*

County [or as the case may be] of —, } To A. B. of &c.
to wit. }

Whereas C. D., the driver of the hackney carriage, No. —, [or "the driver," or "conductor of the metropolitan stage carriage, No. —"], on the — day of —, was duly convicted of a certain offence, for that [here state the offence] whereby he hath forfeited the sum of —, over and above the sum of —, for the costs and charges of the informer, making together the sum of —, which hath not been paid by the said driver, [or "conductor,"] nor by any person on his behalf: And whereas, according to the statute in that behalf made, the said E. F., the proprietor of the said carriage, hath been required to pay the said sum of —, which he hath neglected and refused to do; therefore I command you to levy the said sum of —, by distraining the goods and chattels of the said E. F., the said proprietor, [proceed as in the form No. 4, to the end thereof.]

8. *Warrant of Commitment of the Proprietor of a Hackney Carriage, or Metropolitan Stage Carriage, for want of a sufficient Distress whereupon to levy the Penalty in which the Driver or Conductor of such Carriage has been convicted.*

County [or as the case may be] of —, } To A. B. of &c., and to the keeper of the
to wit. } common gaol [or "house of correction,"]
at —. }

Whereas &c. [proceed as in form No. 7, to the words, "which he hath neglected and refused to do," inclusive]: And whereas it has been duly made to appear to me,

(n) See note, ante, p. 420.

that no sufficient distress of the goods and chattels of the said E. F., the said proprietor, can be found whereon to levy the said sum of — : Therefore I command you, the said A. B., to apprehend and take the said E. F., and safely to convey him, &c. [*proceed as in the form No. 5, to the end thereof.*]

—◆—
Rabens and Harbours—See **Rabigation and Ribers**.

—◆—
Hawkers and Pedlars.

BY 50 Geo. 3, c. 41, s. 6, the persons who come under the above denomination are thus defined: “every hawker, pedlar, petty chapman, and every other trading person going from town to town, or to other men’s houses, and travelling either on foot, or with horse, horses, or otherwise, in England, Wales, or the town of Berwick-upon-Tweed, carrying to sell, or exposing to sale, any goods, wares, or merchandize.” In the construction of this act it has been held, that a party comes within the above description, who sends his goods by a coach or waggon, and goes himself by another conveyance, and that it is not necessary that he should travel *with the goods* he has to sell (*o*).

Packs to be marked.]—By *sect. 14*, every person, to whom any licence is granted as a hawker and pedlar, must cause to be written, painted, or printed in large legible Roman capitals, upon the most conspicuous part of every pack, box, bag, trunk, case, cart, or waggon, or other vehicle or conveyance, in which he shall carry his goods, and of every room or shop in which he shall so trade, and likewise upon every handbill or advertisement which he shall distribute, the words “*Licensed Hawker*,” together with the number, name, or other mark of distinction printed upon his licence; under the penalty of 10*l*.

By *sect. 15*, persons not licensed using such words, or any word or words to that effect, are liable to the same penalty.

Dealing in smuggled Goods, &c.]—By *sect. 16*, if any hawker or pedlar shall be convicted of knowingly dealing in any kind of smuggled, contraband, or prohibited goods, or any goods fraudulently or dishonestly procured, either by himself, or through the medium of others, with his privity and knowledge, he shall forfeit his licence,

and for ever be incapable of obtaining a new one, over and above all other penalties.

Trading without a Licence, &c.—By *sect. 17*, if any hawker, &c. shall trade without or contrary to a licence, he incurs the penalty of 10*l*. And if any person trading under a licence, upon demand made by any person duly authorized by the commissioners, or upon demand by any justice or constable, or by any officer of the customs or excise, or by any person to whom such hawker shall offer any goods for sale, shall refuse to produce and show his licence, or shall not have it ready to produce, he shall forfeit 10*l*.; and in default of payment, he shall suffer as a common vagrant, and be committed to the house of correction.

By *sect. 20*, any person may seize and detain any such hawker found trading without a licence, or refusing to produce it, in order to give notice to a constable; who is required to carry the offender, unless he shall in the mean time produce his licence, before a justice; who, upon the oath of one witness, may convict him, and may thereupon cause *the said sum of 40*l*. (p)* to be levied by distress, and may commit him in the mean time to the common gaol or house of correction, there to remain until the penalty is levied or otherwise satisfied.

Duties of Constables.^a—By *sect. 21*, if any constable, or other officer, shall refuse, or neglect, upon due notice, or on his own view, to be aiding and assisting in the execution of the act, being thereunto required, he is liable, on conviction by the oath of one witness before one justice, to a penalty of 10*l*.

Recovery of Penalties.—By *sect. 25*, where the penalty does not exceed 20*l*., it is recoverable before one justice, by the oath of one witness; one moiety to go to the King, and the other to the informer, to be levied by distress and sale of the offender's goods, or of the goods with which he was found trading; and the justice may also commit the offender to prison, until the penalty and costs shall be levied or satisfied. The justice may also in the first instance issue a warrant against the offender, to answer any charge or complaint for any penalty, and may commit him to prison until the hearing of the charge or complaint, unless he enters into a recognizance with two sureties to appear at the hearing.

(p) It is fair to suppose that this sum should have been 10*l*., and not 40*l*., and that the latter sum was inserted by mistake. 2 B. & C. 142.

Time of Imprisonment, &c.—By *sect. 26*, no person committed for any offence against the act shall be detained longer than three months.

By *sect. 27*, an *appeal* is given to the next general sessions, and by *sect. 28*, a general form of conviction, which (by *sect. 29*) is not removeable by *certiorari*.

By *sect. 30*, the justice is required to pay over the King's share of every penalty to the clerk of the peace at the next general sessions, who must remit the same to the Commissioners for granting Hawkers' Licences, and the justice must also transmit an account of the conviction to the Commissioners.

1. *Information, under 50 Geo. 3, c. 41, s. 17, against a Hawker for exposing Goods to sale without a Licence.*

Kent, } The information and complaint of A. B., of &c., inspector of hawkers' to wit. } licences, who informs as well for our Lady the Queen, as for himself, in this behalf, made before me, J. P., esquire, one of her Majesty's justices of the peace in and for the county of Kent, on the — day of —, in the year of our Lord 1842, who saith, that C. D. of &c., on the — day of —, in the year aforesaid, at the parish of Lewisham in the said county, he the said C. D. then and there being a hawker and trading person going to other men's houses, and travelling on foot in England, carrying to sell goods, wares, and merchandize, did, as such hawker and trading person, carry to sell, and expose to sale, certain goods, wares, and merchandize, to wit, two pieces of Irish linen and one piece of muslin, without a licence in that behalf required by law, contrary to the form of the statute in that case made and provided; whereby and by force of the same statute the said G. H. hath forfeited for his said offence the sum of 10*l.*: And thereupon the said A. B. prayeth that the said C. D. may be summoned before me to answer for his said offence, and to be further dealt with according to law.

Taken before me the day and year first }
above mentioned. J. P. }

A. B.

2. *Summons on the above Information.*

Kent, } Whereas information and complaint has been this day made before me, to wit. } J. P., esquire, one of her Majesty's justices of the peace in and for the county of Kent, by A. B. of &c., inspector of hawkers' licences, that C. D. of &c. [*as in the above information, to the end of the words,* "the said C. D. hath forfeited for his said offence the sum of 10*l.*"] : These are therefore in her Majesty's name to require you, the said C. D. personally to appear before me, the said justice, at —, in the county aforesaid, on — next, at — o'clock in the — noon, then and there to answer to the said complaint, and to be further dealt with according to law. Given under my hand and seal, the — day of —, in the year of our Lord 1842.

To C. D. of &c.

3. *Warrant to apprehend the party, on the above Information (q).*

Kent, }
to wit. } To the constable of —, in the said county.

Forasmuch as C. D. of &c., hath this day been charged before me, J. P., esquire, one of her Majesty's justices of the peace in and for the county of Kent, on the oath of a credible witness: For that he, the said C. D. &c. [*as in form No. 1, to the end of the words*, "the said C. D. hath forfeited for his offence the sum of 10*l*."]: These are therefore to command you, in her Majesty's name, forthwith to apprehend and bring before me the body of the said C. D. to answer unto the said charge, and to be further dealt with according to law. Given under my hand and seal, this — day of —, 1842.

4. *Conviction on the above Information (r).*

Kent, }
to wit. } Be it remembered, that on the — day of —, in the year of our Lord 1842, at —, in the said county of Kent, A. B. of &c., inspector of hawkers' licences, came before me, J. P., esquire, one of her Majesty's justices of the peace in and for the said county, and informed me that C. D. of &c. [*as in the above information, to the end of the words*, "contrary to the form of the statute in such case made and provided"] : Whereupon the said C. D., being duly summoned to answer the said charge, appeared before me, the said justice, and having heard the said charge contained in the said information, said, that he was not guilty of the said offence, and in his defence alleged that [*here insert what the party says in his defence*]; but the said J. G. did not adduce any evidence before me to exonerate himself from the said charge: Whereupon the same was fully proved before me on the oath of W. S., a credible witness: And therefore, it manifestly appearing to me that the said C. D. is guilty of the offence charged in the said information, I do hereby convict him of the said offence, and do adjudge that he hath forfeited the sum of 10*l*. of lawful money of Great Britain, to be distributed as the law directs, according to the form of the statute in such case made and provided. Given under my hand and seal, the — day of —, in the year of our Lord 1842.

5. *Warrant of Distress on the above Conviction.*

Kent, }
to wit. } To the constable of —, and to all other constables in and for the said county.

Whereas C. D. of &c. was on this day duly convicted before me, J. P., esquire, one of her Majesty's justices of the peace in and for the county of Kent, for that he the said C. D. &c. [*as in form No. 1, to the end of the words*, "the said C. D. hath forfeited for his said offence the sum of 10*l*." of lawful money of Great Britain, to be distributed as the law directs: And whereas the said C. D., being so convicted as aforesaid, and being required to pay the said sum, hath not paid the same, or any part thereof, but therein hath wholly made default: These are therefore to command you forthwith to levy the said sum of 10*l*, by distress and sale of the goods and chattels of the said C. D., or of the goods and chattels with which the said C. D. was so found

(q) The magistrate is empowered by the 25th section of the statute to issue a warrant in the first instance. See *ante*, p. 424.

(r) This form of conviction is given by the statute, section 28.

trading (s) as aforesaid: And I do hereby order and direct the goods and chattels so to be distrained to be sold and disposed of within five days, unless the said sum of 10*l.* for which such distress shall be made, together with the reasonable charge of taking such distress, shall be sooner paid; and out of the monies arising from such sale, that you do pay one moiety of the said sum to the use of her Majesty, and the other moiety to A. B., who hath informed me of the said offence, rendering the overplus on demand to the said C. D., the reasonable charge of taking, keeping, and selling the same distress being first deducted: And you are hereby also commanded to certify to me what you shall do by virtue of this warrant. Given under my hand and seal, this — day of —, in the year of our Lord 1842.

6. *Warrant of Commitment on the above (t).*

Kent, } To the constable of —, and to the keeper of the house of correction at
to wit. } —, in the county of Kent.

Whereas C. D. of &c., was on this day duly convicted before me, J. P., esquire, one of her Majesty's justices of the peace in and for the county of Kent, for that he, the said C. D. on &c. [as in the form No. 1, to the end of the words, "and the said C. D. hath forfeited for his said offence the sum of 10*l.*"] of lawful money of Great Britain, to be distributed as the law directs; which said sum of 10*l.* having been demanded of him, the said C. D., by me, the said justice, and he having refused and neglected to pay the same: These are therefore to command you, the said constable, to take the said C. D. into your custody, and him safely to convey to the house of correction at —, in the county aforesaid, and there to deliver him to the keeper thereof, together with this precept: And I do hereby command you, the said keeper of the said house of correction, to receive the said C. D. into the said house of correction, and him there safely to keep, until the said sum of 10*l.* shall be levied by distress and sale of the goods and chattels of the said C. D., or of the goods and chattels with which he was found trading as aforesaid, together with the reasonable charges of taking such distress, or until the said sum and such charges shall be sooner paid or satisfied by the said C. D.; provided the time of such imprisonment shall not exceed the space of three months; and for your so doing this shall be your sufficient warrant. Given under my hand and seal, this — day of —, in the year of our Lord 1842.

7. *Conviction of a Licensed Hawker, under section 14, for not putting his Name on his Pack (u).*

Kent, } Be it remembered, &c. [as in form No. 4.], and informed me that C. D.,
to wit. } of &c., on the — day of — instant, he the said C. D. being then and there a person to whom a licence had been granted to exercise the trade of a hawker, pedlar, and petty chapman, under and by virtue of the statute in that case made and provided, and then and there trading with and under colour of such licence, did not, whilst he was so licensed and trading as aforesaid, cause to be written, painted, or printed in large legible Roman capitals, upon the most conspicuous part of a certain

(s) See *sect. 25, ante*, p. 424.

(t) By the 25th section of the act, the warrant of commitment and the warrant of distress are, contrary to the rules of

ordinary practice, directed to be issued simultaneously. See *ante*, p. 424.

(u) See *ante*, p. 423.

pack, in which he the said C. D. then and there carried certain goods, wares, and merchandize, the words "Licensed Hawker," nor the number, name, or other mark of distinction written or printed upon his said licence, contrary to the form of the statute in that case made and provided: Whereupon the said C. D., being duly summoned, &c. [as in form No. 4. to the end.]

Haystacks—See Arson.

Heath—See Arson.

High Treason—See Treason.

Highways.

And see Inclosures, Turnpike Roads.

WHAT is a Highway.—At common law, a highway is a right of passage to all the public, without distinction, and may be either a *footway*, or a *foot and horseway*, or a *foot, horse, and carriageway*. But a larger definition is given by the recent statute of 5 & 6 Will. 4, c. 50, s. 5, for the consolidation and amendment of the law relating to highways. It is there declared, that the word "highway" shall, in the construction of that act, be construed to mean "all roads, bridges (not being county bridges (*v*)), carriageways, cartways, horseways, bridgeways, footways, causeways, churchways, and pavements."

How created.—A highway may be created either by *prescription*, by *dedication*, or by *act of parliament*. 1. A highway by *prescription* is one which all persons, without distinction, have indiscriminately used for a considerable space of time, without interruption. 2. A highway by *dedication* is one, which the owner of the fee has either *expressly* or *impliedly* dedicated to the use of the public. An *express* dedication need not be by *deed*, but is sufficient if it be by *parol* (*w*), and the public have, without interruption, used it subsequently to such parol dedication. An *implied* dedication is, where the owner of the fee throws open a way for *any one* to pass, and marks

(*v*) A county bridge is, by the common law, repairable by the county at large; and is as much a highway, at common law, as a public road; being only a particular portion of a highway, which is

constructed over a stream or river.

(*w*) *Marquiss of Stafford v. Coyney*, 7 B. & C. 257; *Allnutt v. Pott*, 1 B. & Adol. 309.

by no visible distinction his intention to exclude any portion of the public, and where the way has been subsequently used without impediment for a long period of time (*x*)—such as for a period of eight years (*y*). 3. A highway may be created by an *act of parliament*, which contains a specific enactment for it (*z*); but the provisions contained in the act for its construction must be strictly complied with, before the way can be established (*a*).

The 5 & 6 Will. 4, c. 50, repeals all the former acts relating to highways, except those affecting the city of London. Its numerous enactments may be thus classed:—

1. <i>Of the Special Sessions for the purposes of Highways</i>	429	riages, &c.	451
2. <i>Of the Surveyor, his general Powers and Duties</i>	429	7. <i>Of widening, diverting, and stopping up Highways</i>	453
3. <i>Of the Highway Rate, and the Collector</i>	435	8. <i>When a Highway repaired, ratione tenuræ, may be made a Parish Highway</i>	456
4. <i>Of the Repair and Maintenance of Highways</i>	438	9. <i>Of the Proceedings before Magistrates for recovery of Penalties, &c.</i>	457
5. <i>Of Nuisances, Injuries, &c.</i>	446		
6. <i>Regulations as to Carts and Car-</i>			

1. *Of the Special Sessions for the purposes of Highways.*

By *sect. 45*, the justices within their respective divisions, or any two or more of them, are required to hold not less than eight, nor more than twelve, special sessions in every year for executing the purposes of the act, the days of the holding thereof to be appointed at a special sessions to be held within fourteen days after the 20th March in every year; but it is not necessary for any notice to be given to any justice of the day or time of the holding thereof.

2. *Of the Surveyor, his general Powers and Duties.*

Appointment of Surveyors.—By 5 & 6 Will. 4, c. 50, s. 6, the inhabitants of every parish maintaining its own highways, at their first meeting in vestry for the nomination of overseers of the poor in every year, are to proceed to the election of one or more persons to serve the office of surveyor in the parish for the year then next ensuing; but any out-going surveyor may be re-elected. The surveyor is required to repair, and keep in repair, the several highways

(1) *Lade v. Shepherd*, 2 Str. 1004; *R. v. Lloyd*, 1 Campb. 260; *R. v. Barr*, 4 Campb. 16.

(y) *Rugby Charity v. Merryweather*, 11

East, 375, note.

(z) *Satcliffe v. Greenwood*, 8 Price, 535.

(a) *R. v. Haslingfield*, 2 M. & S. 558; *R. v. Cumberworth*, 3 B. & Adol. 108.

in the parish for which he is appointed, and which then were, or thereafter might become, liable to be repaired by the parish.

Their Qualification.—By *sect. 7*, any person living within the parish, or any adjoining parish, (such person not living in the parish being willing to serve the office,) and having an estate in houses, lands, tenements, or hereditaments lying within such parish, in his own right, or in right of his wife, of the value of 10*l.* by the year, or a personal estate of the value of 100*l.*; or being an occupier or tenant of houses, &c. (whether resident within the parish, or within any adjoining parish) of the yearly value of 20*l.*; is eligible to the office of surveyor. But any person so chosen may provide a sufficient deputy, to be approved of by the justices at a special sessions for the highways, who shall by writing under their hands testify their consent thereto.

Penalty for refusing to serve the Office of Surveyor.—By *sect. 8*, if any person, who shall be chosen as surveyor of the highways under the provisions of the act, shall refuse or neglect to take upon himself the office, or to provide a sufficient deputy, he shall forfeit, on conviction before *two justices*, not exceeding 20*l.*, unless he can show sufficient cause why he should not serve the office.

Surveyor may be appointed with a Salary.—By *sect. 9*, instead of electing such surveyor as before mentioned, the majority of the inhabitants so assembled as aforesaid may nominate any one person of skill and experience to serve the office of surveyor at such salary as they shall think fit; which appointment shall be in writing on paper, without stamp, and signed by the chairman of such meeting. Such surveyor, when so appointed, is invested with the same powers, and subject to the same duties, forfeitures, and penalties as any other surveyor appointed under the act. The salary is to be paid out of the money raised under the act, as shall have been agreed upon between the inhabitants and the person so nominated.

Surveyor to specify the Name of his Successor.—By *sect. 10*, the surveyor, at the time of passing his accounts, must deliver to the justices a statement in writing of the name and residence of the person appointed to succeed him as surveyor.

When the Justices may appoint a fresh Surveyor.—By *sect. 11*, in case it shall appear on oath to the justices at a special session for the highways, that the inhabitants of any parish have neglected or refused to nominate and elect a surveyor as directed by the act, or that

the outgoing surveyor has delivered no statement of the name and residence of his successor, or that the surveyor is dead, or has become disqualified, or has neglected or refused to act, the justices may by writing under their hands, at their next (*b*) succeeding special sessions, dismiss such surveyor, and appoint any other person to be a surveyor for such parish, till the next annual meeting for the nomination or election of such surveyors, with or without such salary, as to the justices shall seem fit. And (by *sect. 12*) where a parish is situated in more than one county, division, or liberty, such surveyor shall be appointed at a special sessions for that county, division, or liberty, in which the church of the said parish shall be situate.

Penalty for general Neglect of Duty.—By *sect. 20*, if any surveyor shall neglect his duty in any thing required of him by the act, for which no particular penalty is imposed, he shall forfeit not exceeding 5*l*.

Penalties for particular Defaults.—By *sect. 40*, the surveyor is required from time to time to keep a book, in which shall be entered a just and true and particular account of all money which shall have come to his hands, and also an account of all tools, materials, implements, and other things, provided by him for the repair of the said highways; and such book shall, at all reasonable times, be open to the inspection of every inhabitant rated to the highway rate. If the surveyor shall neglect to provide such book, or to enter therein every sum received or paid by him, within one week after the same shall have been received or paid, or shall not permit any such inhabitant at any reasonable time to inspect the same, or take copies or extracts therefrom, he is liable to a penalty not exceeding 5*l*. for each default.

By *sect. 42*, the surveyor shall, within fourteen days after leaving his office, deliver such books and accounts verified as therein directed, together with all such sums of money as shall be due from him, and likewise all tools, &c. to his successor in office, or retain the same in his hands and account for them in his next account, if he shall be continued surveyor in the succeeding year, under the penalty not exceeding 5*l*.; and in case he shall make default in paying or accounting for the money so due from him, he shall forfeit double the money so due.

Surveyor's Accounts.—By *sect. 44*, within fourteen days after the appointment of the surveyor, the accounts for the year preceding

(*b*) This enactment is only directory, and if the justices omit to make the appointment at their next sessions, it may be

made at some subsequent sessions. *R. v. Justices of Denbighshire*, 4 East, 142.

shall be made up and laid before the parishioners in vestry assembled, who may, if they think fit, order an abstract thereof to be printed and published; and within one calendar month after such appointment, the accounts shall be signed by the surveyor for the year preceding, and laid before the justices at a special sessions, who may examine him as to the truth of the accounts. If any person chargeable to the rate objects to the accounts, or the application of the monies received by the surveyor, he may make his complaint to the justices at the time of the verification of the accounts, who may examine such surveyor upon oath, and make such order thereon as to them shall seem meet.

Surveyor to make a Return of the state of the Roads, &c.—By sect. 45, at the special sessions held next after the 25th March, the surveyor of each parish shall verify his accounts, and shall make a return in writing of the state of all the roads, common highways, bridges, causeways, hedges, ditches, and watercourses appertaining thereto, and of all nuisances and encroachments, if any, made upon the several highways within the parish for which he was a surveyor, as well as the extent of the different highways which the said parish is liable to repair, what part thereof has been repaired, and with what materials, at what expense, and what was the amount levied during the time he was surveyor of the parish.

Penalty for being interested in Contracts, &c.—By sect. 46, the surveyor may, with the consent of the inhabitants in vestry assembled, contract for purchasing, getting, and carrying the materials required for the repair of the highways. But if he himself shall have any part, share, or interest, directly or indirectly, in any contract or bargain for work or materials, or shall upon his own account, directly or indirectly, use or let to hire any team, or use or sell or dispose of any materials, to be used or employed in making or repairing the highway, (unless with the licence in writing of two justices in special sessions assembled,) he shall forfeit not exceeding 10*l.*, and be for ever after incapable of being employed as a surveyor with a salary.

Penalties for Neglect as to the Roads, &c.—By sect. 56, if any surveyor shall cause to be laid any heap of stone, or any other matter or thing whatsoever, upon any highway, and allow the same to remain there at night, to the danger or personal damage of any person passing thereon, all due and reasonable caution not having been taken to guard against the same, he shall forfeit not exceeding 5*l.*

By sect. 57, if any surveyor shall cause to be dug materials for the

highways, whereby any bridge, mill, building, dam, highway, occupation road, ford, mines, or tin works, or other work, may be damaged or endangered, he shall forfeit not exceeding 5*l.*, notwithstanding his liability to any civil action.

Surveyor of County Bridges.—By *sect. 22*, the several powers and authorities vested in the surveyor of highways, as well for the getting of materials as the preventing and removing of all nuisances and annoyances, are declared to be vested in the surveyor of county bridges, and the roads at the ends thereof repairable therewith. And the several penalties, forfeitures, matters, and things in the act contained relating to highways are extended, as far as the same are applicable, to such bridges and roads.

When a District Surveyor may be appointed.—By *sect. 13*, after reciting that it is expedient that in many cases parishes should be formed into districts, for the purpose of having one sufficient person to be the district surveyor, who should have the superintendence and management of the funds to be raised and levied in each parish forming part of such district, it is enacted, that the inhabitants of any parish in vestry assembled may direct one of the churchwardens, or the chairman of the vestry, to make application to the quarter sessions for the county,—or where the parishes to be united shall be situated in the same division, at some special sessions for the division in which such parish shall be situate,—for the purpose of being united with one or more parishes to form a district for the purposes aforesaid, and at the same time to nominate one fit and proper person to be returned to the justices to be appointed as such district surveyor, together with the amount of the yearly salary which the vestry shall agree to pay him. The application must be made in writing, signed by the churchwardens of the parish, or by the chairman of the vestry, and forwarded to the clerk of the peace, or to the clerk of the justices for the division.

By *sect. 14*, on such application being made by two or more parishes, the justices at the quarter sessions, or at some special sessions, may unite such of the parishes so applying as they shall think fit into a district for the purposes of the act, and are to select out of the persons nominated by the several parishes one fit and competent person to be the surveyor for such district, which appointment shall be in writing.

How such Appointment may be determined.—By *sect. 15*, the names of the parishes so united, and the name of the person so ap-

pointed as district surveyor, shall be reduced into writing, signed by the chairman of the quarter sessions, or by the majority of the magistrates present at such special sessions, and shall be transmitted by him or them to the clerk of the peace to be enrolled, who is to send a copy thereof to each of the churchwardens, or the surveyor of each of the parishes so united. The parishes so united shall continue to form a district for the purposes of the act, for the space of three years then next following, and from thenceforward until the churchwardens of any one of the parishes united, or the chairman of the vestry, shall, by direction of the inhabitants in vestry assembled, give twelve months' notice to the churchwardens and surveyor of each of the other parishes, and to the district surveyor, and to the clerk of the peace, of the intention of the parish to cease to form a part of the district; in which case, after the expiration of the twelve months' notice, the union of the parishes and the appointment of the district surveyor shall cease, so far as may concern or be binding on the parish giving such notice.

Power and Duties of District Surveyor.].—By *sect. 16*, the district surveyor, when so appointed, is invested with all the powers, (except the making, assessing, and levying the rate,) and is subject to all the duties, penalties, and forfeitures, which any surveyor is invested with and liable to, and is to have the laying out and application of all the funds raised and levied under the authority of the act. Such district surveyor, however, is not to expend any monies levied in any one of the united parishes, except for the use and benefit of the parish in which it is so levied, unless with the consent of the vestry of such parish, for the purpose of carrying on repairs or beneficial improvements for the common benefit of the united parishes. He is annually to receive from each of the parishes composing his district such salary as shall have been agreed upon by the several parishes, which is to be paid to him by the surveyor of the highways out of the money raised in each of such parishes; and in case of non-payment thereof, the same shall be recoverable from the surveyors of the highways of such parishes to and for his own use, in the same manner as any forfeiture is recoverable under the act.

By *sect. 17*, in each of the parishes so united into a district, a surveyor is also to be elected as before mentioned in addition to the district surveyor, but such surveyor is only authorized to make, assess, and levy the rate before directed, and from time to time to pay over the same to the district surveyor.

Surveyor may charge Costs of legal Proceedings.—By sect. 111, if the inhabitants of any parish shall agree at a vestry to defend any indictment found against the parish, or to appeal against any order made by, or proceeding of, any justice of the peace in the execution of any powers given by this act, or to defend any appeal, the surveyor of such parish may charge in his account the reasonable expenses incurred in defending such prosecution, or prosecuting or defending such appeal, after the same shall have been agreed to by such inhabitants at a vestry or public meeting, and allowed by two justices of the peace within the division where such highway shall be; which expenses, when so agreed to or allowed, shall be paid by such parish out of the fines, forfeitures, payments, and rates, authorized to be collected and raised by virtue of the act. But, if the money so collected and raised is not sufficient to defray the expenses of repairing the highways in the parish, as well as the above mentioned costs, the surveyor is then authorized to make, collect, and levy an additional rate, in the same manner as the rate by this act is authorized to be made for the repair of the highway.

3. *Of the Highway Rate, and the Collector.*

Power to make Rates.—By sect. 27, in order to raise money for the several purposes of the act, a rate shall be made, assessed, and levied by the surveyor upon all property liable to be rated and assessed to the relief of the poor, and to extend to such woods, mines, and quarries of stone, or other hereditaments, as have been usually rated to the highways. Every such rate must be signed by the surveyor, and allowed by two justices, and published in the same way as poor rates are now allowed and published.

Power to inspect Poor Rates.—By sect. 28, in order to enable the surveyor to form a proper judgment of any rate to be made, he may at all reasonable times inspect, or by writing signed by him grant authority to any other person to inspect, any of the poor rates of the parish of which he is surveyor, or the books wherein the assessments thereto shall be entered, without fee or reward, and make copies or extracts therefrom. If any person, in whose custody the rates or books shall be, shall refuse or neglect to produce the same, or allow such copy or extracts to be made or taken, he shall forfeit not exceeding 5*l*.

Form and Amount of Rate.—By sect. 29, every rate must contain the names of the occupiers, the description of the premises they

occupy, and the full annual value of the property, and must specify the sum in the pound at which it is made, which is not to exceed at any one time the sum of 10*d.* in the pound, or 2*s.* 6*d.* in the pound in any one year. But, with the consent of four-fifths of the inhabitants of any parish contributing to the highway rate assembled at a meeting specially called for that purpose, after ten days notice thereof being given by the surveyor, the rate may be increased to such sum as they may think proper.

When Surveyor may compound with Landlords.—By *sect. 30*, in parishes in which the overseers have power by local acts of parliament to compound for the poor rates with the landlords of certain premises, and in case of the refusal of the latter to compound to rate such landlords as the occupiers, the surveyor shall have the same powers to compound and enforce composition, and in case of refusal by the landlords, to assess them in the same proportions to the rates for the highways, as the overseers have in regard to the poor rate.

Errors in Rate may be rectified.—By *sect. 31*, whenever it shall appear to the surveyor that there has been any omission or error in any rate, he may, with the consent of the justices at a special sessions for the highways, cause to be added or corrected in the rate the name of the person omitted or erroneously stated, and a description of the property rateable; and every such addition or correction signed by such justices shall be valid.

When persons excused from Payment of Rates.—By *sect. 32*, the justices at a special sessions, on application made to them by any person to be discharged from any rate, may, on proof of his inability through poverty to pay it, the surveyor having been first summoned to appear on the part of the parish, order that such person shall be excused from the payment.

By *sect. 33*, when property, or the owner or occupier in respect thereof, had previous to the passing of the act been legally exempt from the performance of *statute duty*, or from the payment of any composition in lieu thereof, or of highway rate, they are equally exempt from the payment of any rate under the act.

Power to levy Rate.—By *sect. 34*, for levying and recovering the rate, the surveyor has the same powers as the overseers of the poor for the recovery of any poor rate.

Appointment of the Collector.—By *sect. 36*, the surveyor, with the consent of the majority of the inhabitants at a vestry, may appoint

any number of collectors, and may remove any one and appoint another in his stead, and make such allowance to him out of the rates as the vestry may think reasonable. The collector is to have all the powers of the surveyor for levying and enforcing the payment of rates. The surveyor is required (by *sect. 37*) to take security from every collector for the due execution of his office, to the full amount of the sum likely to be in his hands at any one time, which is to be by bond, without stamp.

Penalty for Default of Collector.—By *sect. 38*, every collector is required to deliver to the surveyor true and perfect accounts in writing of all monies received by him, and also a list of the names of all such persons as shall have neglected or refused to pay their respective rates, and of the monies due from them respectively; and he must pay all such monies as shall remain due from him to the surveyor. If he makes default, or shall refuse or wilfully neglect to deliver to the surveyor, within three days after notice in writing given to or left at his usual place of abode, all books, papers, and writings in his custody or power relating to the execution of the act, or to give satisfaction to the surveyor respecting the same, then, upon complaint made by the surveyor to any justice, the justice may issue a summons requiring him to appear before two justices, and if upon confession, or by the testimony of any credible witness, it shall appear that any monies remain due from such collector, such justices may, by warrant under their hands, cause such money to be levied by distress and sale of the goods and chattels of such collector. In default of distress, they may commit him to the common gaol or house of correction to hard labour not exceeding six calendar months until payment, or until he shall have compounded with the surveyor for such money, with the consent of the inhabitants in vestry; or, in any parish where they do not meet in vestry, with the consent of the inhabitants contributing to the highway rate at a public meeting assembled. If it shall appear to the justices, that the collector has made default in any other of the above particulars, then he is liable to forfeit not exceeding 20*l.*, and in default of payment be committed to hard labour not exceeding four calendar months, or until he shall have complied with the above requisitions.

Separate Accounts to be kept by Surveyor.—By *sect. 39*, the surveyor shall keep separate and distinct accounts of the monies levied for the rate, which shall specify the different sums, and the times when, and the persons to whom, and by whom, the same shall have been collected and paid.

4. *Of the Repair and Maintenance of Highways.*

Large Parishes may nominate a Board for Superintendence of the Highways.—By 5 & 6 Will. 4, c. 50, s. 18, in any parish where the population by the last census exceeds 5000, if it be determined by a majority of two-thirds of the votes of the vestrymen present at a meeting in vestry assembled under the provisions of the act, to form a board for the superintendence of the highways, the vestry may nominate any number of persons not exceeding twenty, nor less than five, being respectively householders and residing in and assessed to the poor rate, and also liable to be rated to the repairs of the highways, to serve the office of surveyors of the highways for the year ensuing. Such persons, or any three of them, are authorized to act as a *board*, and to carry into effect the provisions of the act. They may appoint a collector, or any number of collectors, of the rates, an assistant surveyor, and a clerk to attend the board, such assistant surveyor and clerk to be paid such reasonable salaries out of the rates as the board shall determine. Upon such board being so nominated, all the powers and authorities of the vestry and the surveyor are to be declared to be vested in the board, or any three of them, who may also appoint a treasurer. At the expiration of the year for which the board shall be elected, the board must present to the vestry of the parish copies of all their accounts, and minutes of their proceedings during the preceding year.

Board may hire or purchase Premises, &c.—By sect. 19, the board may rent, or with the consent of the vestry purchase, ground or other premises for keeping the implements and materials necessary for the repair of the highways, or for preparing such materials, and may direct how and in what manner the highways, or any part, shall be curbed, or paved with stone, or otherwise.

Highways adjoining Bridges.—By sect. 21, if any bridge shall be built, after the passing of the act, which shall be liable to be repaired by the county, then all highways leading to, passing over, and next adjoining to such bridge shall be repaired by the parish, or other persons, who were bound before the erection of the bridge to repair the said highways. But this enactment is not to exonerate the county from repairing the walls, banks, or fences of the raised causeways and raised approaches to such bridges, or the land arches thereof.

Repair of new Highways.—By sect. 23, no road or occupation-way made at the expense of any private person body politic or cor-

porate, nor any road set out as a private driftway or horsepath in any award of commissioners under an inclosure act, shall be deemed or taken to be a parish highway, unless the party proposing to dedicate such highway to the use of the public shall give three calendar months previous notice in writing to the surveyor of the parish of his intention to dedicate such highway to the use of the public, describing its situation and extent, and shall make the same in a substantial manner, and of the width required by the act, and to the satisfaction of the surveyor, and of any two justices of the division in which such highway is situate in petty sessions assembled, who are hereby required, on receiving notice from the party, to view the same, and to certify that such highway has been made in a substantial manner, and of the proper width at his expense; which certificate shall be enrolled at the next quarter sessions. In such case, after the highway shall have been used by the public, and duly kept in repair by the party for the space of twelve calendar months, such highway shall for ever thereafter be kept in repair by the parish in which it is situate; provided nevertheless, that on receipt of such notice as aforesaid, the surveyor shall call a vestry meeting of the inhabitants, and if such vestry shall deem such highway not to be of sufficient utility to the inhabitants of the parish to justify its being kept in repair at their expense, any one justice, on the application of the surveyor, shall summon the party before the justices at the next special sessions for the highways, and the question as to the utility of such highway shall be determined at the discretion of such justices.

Direction Posts.—By *sect. 24*, the surveyor of every parish, except a parish the whole or part of which is within three miles of the General Post Office, shall, with the consent of the vestry, or by the direction of the justices at a special sessions for the highways, cause (where there are no such signs or posts) to be erected or fixed, in the most convenient place where two or more ways meet, a stone or post, with inscriptions thereon in large legible letters, not less than one inch in height, and of a proportionate breadth, containing the name of the next market town, village, or other place to which the highways respectively lead, as well as stones or posts to mark the boundaries of the highway, containing the name of the parish wherein situate: and the surveyor shall, at the several approaches or entrances to such parts of any highways as are subject to deep or dangerous floods, cause to be erected graduated stones or posts as he shall judge to be necessary for the guiding of travellers in the best and safest

track through the floods ; and also to secure horse causeways and foot causeways by posts blocks or stones fixed in the ground, or by banks of earth cast up, or otherwise, from being passed over by waggons or other carriages. The surveyor is to be reimbursed out of the monies received by him the expenses of erecting and keeping in repair such stones, posts, or blocks.

When adjoining Ground may be used as a temporary Road.—By *sect. 25*, the surveyor may make a road through the grounds adjoining to any ruinous or narrow part of any highway, (not being the site or ground whereupon any house stands, nor being a garden, lawn, yard, court, park, paddock, plantation, planted walk, or avenue to any house, or inclosed ground set apart for building ground, or as a nursery for trees,) to be made use of as a public highway, whilst the old road is repairing or widening ; making such recompence to the proprietor and occupier of such grounds for the damages they may thereby sustain, as the justices at a special sessions for the highways may think reasonable ; such sum so awarded as a recompence to be recoverable in the same manner as any fines and forfeitures under the act.

Removal of Snow, &c.—By *sect. 26*, if any impediment or obstruction shall arise in any highways from accumulation of snow, or from the falling down of the banks on the side of such highways, or from any other cause, the surveyor is required, within twenty-four hours after notice thereof from any justice of the peace of the county, to cause the same to be removed.

Penalty for taking away Materials.—By *sect. 47*, if any person shall, without the consent of the surveyor, take away materials for the repair or use of any highway, or any materials out of any quarry which shall have been opened for the purpose of getting materials for any highway, before the surveyor and his workmen shall have discontinued working therein for the space of six weeks, (except the owner of any private grounds, and persons authorized by such owner to get materials in such quarry for his private use, and not for sale,) every person so offending shall forfeit not exceeding 10*l*.

Sale of Land allotted for Materials.—By *sect. 48*, reciting that under inclosure acts parcels of land have been, and may be, allotted to parishes, or to the surveyor of the highways, for the purpose of obtaining materials for the repair of the highways, and the materials in such parcels of land have been, and may be, exhausted, it is de-

clared, that the surveyor, with the consent of the vestry, and the consent in writing of the justices at a special sessions for the highways, may sell and convey such parcels of land to some person whose lands adjoin thereto, or, if he refuse to purchase, to any other person, for such price as the justices may deem fair and reasonable, and with the money arising therefrom, to purchase other lands in lieu thereof, with such consent as aforesaid.

Renunciation of Claims by Tenants for Life, &c.—By *sect. 49*, tenants for life, ecclesiastical and lay corporations, the proprietors of entailed estates, and the trustees and guardians of any person under any legal disability or incapacity, may give up and renounce every claim of damage or compensation for such ground and materials as any highway may occupy in their respective properties, and such renunciation shall be equally binding on their heirs and successors; provided that such renunciation be in writing, and signed by the party in the presence of two witnesses, or, in case of corporations, in such manner as is usually adopted by such corporations, and be enrolled at the next quarter sessions.

Trustees of Lands for repair of Highways may grant Leases.—By *sect. 50*, when any lands or tenements are given solely for maintenance of highways, all persons enfeoffed or trusted with the same may let them at the most improved yearly value, without fine, for any term not exceeding ninety-nine years, with the consent in writing under the hands of the justices at a special sessions for the highways, neither of such justices being interested therein.

Power of Surveyor to gather Stones, &c.—By *sect. 51*, the surveyor may, in any waste land, or common ground, river, or brook, within his own, or any other parish wherein gravel sand stone or other materials are likely to be found, (in case sufficient cannot be conveniently had within the parish where the same are to be employed, and sufficient shall be left for the use of the roads in such other parish,) search for, dig, get, and carry away the same, so that he doth not thereby divert or interrupt the course of such river or brook, or prejudice or damage any building, highway, or ford, nor dig or get the same out of any river or brook within the distance of 150 feet above or below any bridge, nor within the like distance of any dam or wear. He may likewise gather stones lying upon any lands within the parish where such highway shall be, and take and carry away so much of such materials as he shall think necessary to be employed in the amendment of the highways, without making any satisfaction

for the same; but satisfaction shall be made for all damage done to the lands of any person by carrying away the same, in the manner after directed: and no such stones shall be gathered without the consent of the owner of the lands, or a licence for that purpose from two justices at a special sessions, after having summoned such owner to come before them and heard his reasons for refusing his consent. But (by *sect. 52*) this power is not to extend to stones or other materials thrown up by the sea, commonly called beach, where the removal of the same would cause any damage or injury by inundation to the lands adjoining, or increased danger of incroachment by the sea.

And by *sect. 53*, the surveyor cannot take or carry away any materials for making or repairing any highway from any inclosed land, until one calendar month's notice in writing signed by him shall have been given to the owner of the premises, or to his known agent, and also to the occupier, or left at his last or usual place of abode, to appear before the justices at a special sessions for the highways, to show cause why such materials shall not be had therefrom; and if he shall not show sufficient cause to the contrary, the justices may authorize the surveyor to take and carry away such materials. If such owner, agent, or occupier shall neglect to appear by himself or his agent, the justices may (upon proof on oath of the service of such notice) make such order therein as they shall think fit, as fully and effectually as if the owner or occupier, or his agent, had attended. By 4 & 5 Vict. c. 51, all lands in the exclusive occupation of any person for agricultural purposes shall be deemed to be inclosed lands, although not separated by any fence from the adjoining lands.

By *sect. 54*, the surveyor may, by licence in writing from the justices at a special sessions, search for, dig, and get materials, (if sufficient cannot be had conveniently within the waste lands, common grounds, rivers, or brooks,) in any inclosed lands, (not being a garden, yard, avenue to a house, lawn, park, paddock, or inclosed plantation, or inclosed wood not exceeding 100 acres in extent,) within the parish where the same shall be wanted, or within any other parish near to the highway, if sufficient materials cannot be conveniently had in the parish where such highways lie, or in the waste lands rivers or brooks of the adjacent parish, provided a sufficient quantity of materials will be left for the use of the parish where the same shall be; the surveyor making such satisfaction for the materials, and also for the damage done to the lands, as shall be ascertained by order of the justices at a special sessions.

By *sect. 55*, if the surveyor shall make any pit or hole in lands,

&c. he shall forthwith cause the same to be sufficiently fenced off, and the fence supported and repaired during such time as the pit or hole shall continue open; and if no materials are found, he shall then, within three days after such pit or hole shall be opened, cause the same to be forthwith filled up; but where any such materials shall be found, he must, within fourteen days after having dug up sufficient, cause the same to be filled up or sloped down, and fenced off, if required by the owner of the land. And every surveyor shall, within twenty-one days after his appointment, cause all the pits and holes which shall then be open and not likely to be further useful, to be filled up or sloped down; and if they are likely to be further useful, he shall secure the same by posts and rails, or other fences, to prevent accidents to persons or cattle. In case he shall neglect to do so, he shall forfeit the sum of 10s. for every such default; and if he shall neglect to fence off any pit or hole, or to slope down the same as before directed, for the space of six days after he shall have received notice for either of those purposes from any justice of the peace, or from the owner or occupier of the land, or any person having right of common, and such neglect and notice shall be proved upon oath before the justices at a special sessions, he shall forfeit not exceeding 10l., to be laid out and applied in the fencing off, filling up, or sloping down such pit or hole, and toward the repair of the roads in the parish where the offence shall be committed, in such manner as the justices shall direct.

Rate-payers to be employed in carrying Materials.—By sect. 35, two rate-payers of any parish, within six days after the annual appointment of the surveyor, may by a notice in writing require the surveyor to call a meeting of the rate-payers of the parish within eight days after the receipt of such notice, giving six days previous intimation of such meeting; and if a majority of the rate-payers then and there assembled shall signify their consent, the rate-payers keeping a team of two or more horses may divide among themselves, in proportion to the amount of rate to which they may respectively be assessed, the carrying of the material which may be required by the surveyor for the repairs of the highways, for which they shall be paid by the surveyor within one calendar month after performing such service, after such rate per cubic yard of material per mile as shall be fixed by the justices at their first meeting in special sessions for the highways after the 25th March. Such carrying or task-work is to be performed at such times, and in such manner, as the surveyor

shall direct, the periods of spring, seed-time, and harvest excepted; and if the surveyor shall not approve of the work, the justices at a special sessions for the highways may hear the complaint of the surveyor, and award such pecuniary redress or forfeiture against the offender as to them shall appear reasonable.

Where a Highway lies in two Parishes.—By sect. 58, the justices at a special sessions, on complaint of any surveyor, (stating in writing, and on a plan thereunto annexed, that there is such a highway, one side whereof ought to be repaired by one parish, and the other side by another, and particularly describing the same by metes, bounds, and admeasurements thereof,) may issue their summons, with a copy of such writing and plan thereunto annexed, to the surveyor of such other parish, to appear before them on a day mentioned in such summons. In case the surveyor shall not appear on the first summons, or appearing shall require further time, the justices shall adjourn the further consideration of the matter, for not more than twenty-one days, nor less than fourteen days, of which the surveyor shall have notice; on which day the justices shall proceed to a hearing, and determine the matter, as follows,—namely, to divide the whole of the highway by a transverse line into equal parts, or into such unequal parts, as, in consideration of the soil, waters, floods, and inequality of such highway, they in their discretion shall think just, and to declare that the whole of such highway on both sides thereof, in any of such parts, shall be maintained and repaired by one of such parishes,—and that the whole thereof on both sides, in the other of such parts, shall be maintained and repaired by the other of such parishes. The justices shall cause their order, and a plan of the highway, and the allotment thereof, to be fairly delineated on paper or parchment, and filed with the clerk of the peace; and also shall cause such posts, stones, or other boundaries, to be placed and set up in the highway, as in their judgment shall be necessary for ascertaining the division and allotment thereof. If the repair of any part of such highway belongs to a corporation, or to any person, *ratione tenuræ*, some person on their behalf may appear before the justices and object to such proceedings; in which case the justices shall, before they divide the highway, hear and consider the objection. But (by sect. 61) nothing contained in this provision is to affect or alter any boundaries of counties, or any division of public or private property, nor the boundaries of any parishes or townships, otherwise than for the purpose of repairing such particular portion of the highway.

By *sect. 59*, after such order and plan shall be so filed with the clerk of the peace, such parishes, or other party, shall be bound to repair such parts of the highways allotted to them, and be liable to be proceeded against for neglect of such duty, and shall also be discharged from the repair of such highways as shall not be included in their respective allotments.

By *sect. 60*, all costs of such proceedings are to be borne and defrayed by the two parishes, or parties, the same being duly settled and apportioned by the justices; and in case of refusal of either party to pay such costs, the justices at a special sessions for the highways may levy the same by distress and sale on the goods of the surveyor of the parish, or other defaulting party.

What to be deemed the Centre of the Highway.—By *sect. 63*, where any thing is directed or forbidden to be done within a certain distance of the centre of the highway, that portion of ground is to be deemed and taken to be the highway, which has been maintained by the surveyor as highway, and repaired with stones or other materials used in forming highways, for six months immediately preceding: and the centre of the highway shall be the middle of such highway, where a line being drawn along the highway, or a point marked, an equal number of feet of highway, which have been so maintained and repaired for twelve months before, shall be found on each side of such line or mark.

When Justices may order Repairs of Highway.—By *sect. 94*, if any highway is out of repair, and information thereof, on the oath of one credible witness, is given to any justice, he may issue a summons requiring the surveyor, or other persons chargeable with such repairs, to appear before the justices at some special sessions for the highways, who may either appoint some competent person to view the same and report thereon, or may fix a day whereon any two of them shall attend to view the highway. And if it shall appear to the justices, either on the report of the person so appointed by them to view, or on the view of such justices, that the highway is not in a state of thorough and effectual repair, the justices shall convict the surveyor, or other party liable to the repair of the highway, in a penalty not exceeding 5*l.*, and shall make an order to the surveyor, or other party liable to repair, limiting and appointing a time for the repairing of the same. In default of such repairs being effectually made within the time so limited, the surveyor, or such other party, shall forfeit and pay (to some person to be named and appointed in a

second order) a sum of money to be therein stated, which shall be equal in amount to the sum which the justices shall, on the evidence produced before them, judge requisite for repairing such highway; which money shall be recoverable in the same manner as any forfeiture under the act, and shall be applied to the repair of the highway. In case more parties than one are bound to repair the highway, the justices shall direct in their order what proportion shall be paid by each. If the highway is a part of the turnpike road, the justices shall summon the treasurer or surveyor, or other officer of such turnpike road, and the order shall then be made on him. But the justices shall not have power to make the order, in any case where the duty or obligation of repairing the highway comes in question.

Where Obligation to repair is disputed.—By sect. 95, if, on the hearing of any such summons respecting the repair of any highway, the duty or obligation of such repairs is denied by the surveyor on behalf of the inhabitants of the parish, or by any other party charged therewith, the justices may direct an indictment to be preferred, and the necessary witnesses to be subpœnaed, at the next assizes or the next general quarter sessions for the county, against the inhabitants of the parish, or the party to be named in such order, for suffering and permitting the highway to be out of repair.

5. *Of Nuisances and Injuries to Highways.*

Where Trees or Hedges too near Highway.—By sect. 64, no tree, bush, or shrub shall be planted on any carriageway or cartway, or within the distance of fifteen feet from the centre thereof, and if not cut down and carried away by the owner or occupier of the land within twenty-one days after notice to him or his agent by the surveyor, he is liable to a penalty of 10s.

By sect. 65, if the surveyor shall think that any carriageway or cartway is prejudiced by the shade of any hedges, or by any trees (except those trees planted for ornament or for shelter to any hop ground, house, building, or court yard of the owner thereof,) growing in or near such hedges or other fences, and that the sun and wind are excluded from such highway to the damage thereof, or if any obstruction is caused in any carriageway or cartway by any hedge or tree, he may summon the owner of the land on which such hedges or trees are growing next adjoining to such carriageway or cartway, to appear before the justices at a special sessions to show cause why the hedges and trees are not properly cut, pruned, or

lopped, or why the obstruction should not be removed; and if the justices shall make an order that either of those things shall be done, the owner shall comply therewith within ten days after a copy of such order shall have been left at his usual place of abode, or at that of his steward or agent, and in default thereof shall forfeit not exceeding 40s.; and the surveyor is in that case authorized to execute the order of the justices, at the costs and charges of the owner, to be levied by distress.

Time for cutting them.—By *sect. 66*, no person shall be compelled, nor any surveyor permitted, to cut or prune any hedge, at any other time than between the last day of September and the last day of March; and no person shall be obliged to fell any timber trees growing in hedges at any time whatsoever, except where the highways shall be ordered to be widened or enlarged, or then to cut down or grub up any oak trees growing in such highway or in such hedges, except in the months of April, May, or June,—or any ash, elm, or other trees in any other months than December, January, February, or March.

Ditches.—By *sect. 67*, the surveyor, district surveyor, or assistant surveyor, may make, scour, cleanse, and keep open all ditches, gutters, drains, or watercourses, and also make and lay such trunks, tunnels, plats, or bridges as he shall deem necessary, in and through any lands adjoining or lying near to any highway, upon paying the owner or occupier (provided they are not waste or common) for the damages which he shall sustain thereby, to be settled and paid in such manner as the damages for getting materials in inclosed lands.

Penalty for altering Ditches, &c.—By *sect. 68*, if any person shall alter, obstruct, or in any manner interfere with any ditches, gutters, drains, or watercourses, trunks, tunnels, plats, or bridges, after they shall have been made by or taken under the charge of the surveyor, without his authority and consent, he is liable to reimburse all charges and expenses which may be occasioned by reinstating and making good the work so altered, obstructed, or interfered with, and also to forfeit not exceeding three times the amount of such charges and expenses.

Penalty for encroaching on Highway.—By *sect. 69*, if any person shall encroach by making any building, hedge, ditch, or other fence on any carriageway or cartway, within the distance of fifteen feet from the centre thereof, he is liable to a forfeiture not exceeding 40s.; and the surveyor may cause the encroachment to be taken

down or filled up at the expense of the offender, to be levied by distress.

Penalty for erecting Steam Engines and Windmills, &c.—By sect. 70, no person shall in future sink any pit or shaft, or erect any steam engine, gin, or other like machine, or any machinery attached thereto, within the distance of twenty-five yards, or any windmill within fifty yards, from any part of any carriageway or cartway, unless such pit or shaft, or steam engine, or other like engine or machinery, shall be within some house or other building, or behind some wall or fence, sufficient to conceal or screen the same from the carriageway or cartway, so that the same may not be dangerous to passengers, horses, or cattle; nor shall any person make any fire for calcining or burning of ironstone, limestone, bricks, or clay, or the making of coke, within the distance of fifteen yards from the carriageway or cartway, unless protected as above; under a penalty not exceeding 5*l.* for every day such nuisance shall be permitted to continue, to be levied by distress.

Where Railways cross Highway.—By sect. 71, whenever a railroad shall cross any highway for carts or carriages, the proprietors of the railroad shall make and maintain good and sufficient gates at each of the said crossings, and shall employ proper persons to attend to the opening and shutting of such gates, so that the persons, carts, or carriages passing along such road shall not be exposed to any danger or damage. Any complaint for neglect in respect of such gates shall be made within ten days after such neglect to one justice, who may summon the party complained against to appear before the justices at their next special sessions, who may convict him in a penalty not exceeding 5*l.*

Penalty for various Nuisances.—By sect. 72, if any person shall wilfully ride upon any footpath or causeway by the side of any road, made or set apart for the use or accommodation of foot passengers; or shall wilfully lead or drive any horse, ass, sheep, mule, swine, or cattle, or carriage of any description, or any truck or sledge upon any such footpath or causeway; or shall tether any horse, ass, mule, swine, or cattle on any highway, so as to suffer or permit the animal to be thereon; or shall cause any damage to be done to the highway or the hedges, posts, rails, walls, or fences thereof; or shall wilfully obstruct the passage of any footway; or wilfully destroy or injure the surface of any highway; or shall wilfully or wantonly pull up, cut down, remove, or damage the posts, blocks, or stones fixed by the

surveyor; or dig or cut down the banks which are the securities and defence of the highways; or break, damage, or throw down the stones, bricks, or wood [fixed upon the parapets or battlements of bridges, or otherwise injure or deface the same; or pull down, destroy, obliterate, or deface any milestone or post, graduated or direction post or stone, erected upon any highway; or shall play at football or any other game on any part of the highways, to the annoyance of any passenger; or if any hawk, higgler, gipsy, or other person travelling, shall pitch any tent, booth, stall, or stand, or encamp upon any part of any highway; or if any person shall make or assist in making any fire, or shall wantonly fire off any gun or pistol, or shall set fire to or wantonly let off or throw any squib, rocket, serpent, or other firework whatsoever, within fifty feet of the centre of such carriageway or cartway; or bait, or run for the purpose of baiting, any bull upon or near any highway; or shall lay any timber, stone, hay, straw, dung, manure, lime, soil, ashes, rubbish, or other matter or thing whatsoever upon such highway, to the injury of the highway, or to the injury, interruption or personal danger of any person travelling thereon; or shall suffer any filth, dirt, lime, or other offensive matter or thing whatsoever, to run or flow into or upon any highway, from any house, building, erection, lands, or premises adjacent thereto; or shall in any way wilfully obstruct the free passage of any such highway; the offender shall forfeit not exceeding 40s., over and above the damages occasioned thereby.

Where Timber, &c. laid on a Highway.—By sect. 73, if any timber, stone, hay, straw, dung, manure, lime, soil, ashes, rubbish, or other matter or thing whatsoever, shall be laid upon any highway, so as to be a nuisance, and shall not, after notice given by the surveyor, be forthwith removed, the surveyor may, by order in writing from one justice, clear the highway, by removing such materials, and may also dispose of the same and apply the proceeds towards the repairs of the highway. But if any soil, ashes, or rubbish shall be laid on any highway, and the same shall not be of sufficient value to defray the expense of removal, the person who laid or deposited the same shall repay to the surveyor the money which he shall have necessarily expended for such removal, to be levied by distress.

Impounding Cattle straying on Highway.—By sect. 74, if any horse, ass, sheep, swine, or other beast or cattle of any kind, shall be found wandering, straying, or lying, or being depastured, on any highway, or on the side thereof, without a keeper (except on such

parts of any road as lead or pass through or over any common or waste or uninclosed ground), the surveyor, or any person authorized by him, may seize and impound the same in the common pound (if any) of the parish where the same shall be found, or in such other place as the surveyor shall provide for that purpose, and detain the same until the owner thereof shall, for every animal so impounded, pay to the surveyor not exceeding 1s., together with the charges and expenses of impounding the same, to be settled by two justices, to be applied to the repair of the highway. If the penalty and charges shall not be paid within five days after such impounding, (notice thereof being first given to the owner, if known at the time,) two justices may order the cattle to be sold, except where it shall be made to appear that such cattle escaped from any enclosure, by any gate or fence being wilfully or negligently left open or destroyed by any person, not being owner of such inclosure, nor employed by such owner, or that the escape of such cattle arose from accident and was not wilful, in which case the justices may remit the penalty; and the money arising from such sale, after deducting the penalty and charges, shall be paid to the owner of the cattle, and in case the owner shall not be known, and no application shall be made for the money arising from such sale within one calendar month after such sale shall have taken place, the money shall be applied, after deducting the expenses, in the same manner as the penalty of 1s. is directed to be applied. But no owner of any cattle impounded shall in any case pay more than the sum of 20s., over and above the expenses of impounding and keeping the same, for any number of cattle impounded at one time; and nothing in the act shall extend to take away any right of pasturage which may exist on the sides of any highway.

Penalty for Pound-breach.—By sect. 75, if any person shall release, or attempt to release, any cattle which shall be seized for the purpose of being impounded, from the pound or place where the same shall be so impounded, or in the way to or from any such pound or place, or shall pull down, damage, or destroy the same pound or place, or any part thereof, or any lock or bolt belonging thereto, or with which the same shall be fastened, or shall rescue or release, or attempt to rescue or release, any distress or levy which shall be made under the authority of the act, until the cattle so seized or impounded, or such distress or levy so made, shall be discharged by due course of law; the offender, upon conviction before two justices upon oath of one credible witness, shall forfeit not exceeding 20l., and in default of payment be committed by the justices to the

house of correction to hard labour, not exceeding three calendar months.

Width of Gates across Highways.—By sect. 81, if any gate across any public cartway shall be less than ten feet wide, or any gate across a public horseway less than five feet wide, clear between the posts, then, upon notice in writing from the surveyor to the person to whom the gate shall belong being left at his dwelling-house, or at that of his steward or agent, requiring him to enlarge the same,—if he shall not in twenty-one days remove or enlarge the same, he shall forfeit not exceeding 10s. for every day he shall so neglect.

6. *Regulations as to Carts and Carriages, &c.*

Name of Owner to be painted on Waggon, &c.—By sect. 76, the owner of every waggon, cart, or other such carriage, shall cause to be painted in one or more strait line or lines, upon some conspicuous part of the right or off side, or upon the off side shafts thereof, before the same shall be used on any highway, his christian name and surname, or the style and title by which he is commonly designated, and the place of his trade or abode, or the christian and surname and place of trade or abode of a partner or owner thereof, at full length, in large legible letters in white upon black, or black upon white, not less than one inch in height, and shall continue the same thereupon as long as such waggon, &c. shall be used upon any highway; and every owner of any waggon, &c. who shall use, or allow the same to be used, on any highway, without the name and description painted thereon as aforesaid, or who shall suffer the same to become illegible, or who shall cause to be painted any false or fictitious name or place of trade or abode on such waggon, &c., shall forfeit not exceeding 40s., with or without costs.

Where two Carts in charge of one Driver.—By sect. 77, no one person shall act as the driver of more than two carts on any highway; and one person can only act as the driver of two carts, provided they shall not be drawn by more than one horse each, and the horse of the hinder cart shall be attached by a rein, in length not exceeding four feet, to the back of the cart which shall be foremost. In case the horse shall not be so attached, the driver shall forfeit 20s.

Penalties on Drivers for Misconduct.—By sect. 78, if the driver of any cart, waggon, or other carriage of any kind, shall ride therein, or upon any horse drawing the same, not having some other person on foot or on horseback to guide the same, (such car-

riages as are driven with reins, and are conducted by some person holding the reins, excepted); or if the driver of any carriage shall by negligence or wilful misbehaviour cause any hurt or damage to any person, horse, cattle, or goods, conveyed in any carriage passing or being upon the highway, or shall quit the same, and go on the other side of the hedge or fence enclosing the same, or negligently or wilfully be at such distance from such carriage, or in such a situation whilst it shall be passing upon such highway, that he cannot have the direction or government of the horses or cattle drawing the same, or shall leave any cart or carriage on such highway, so as to obstruct the passage thereof; or if any person shall drive, or act as the driver, of any waggon, cart, or other such carriage, not having the owner's name as hereby required painted and remaining legible thereon, and shall refuse to tell or to discover the true Christian name and surname of the owner or principal owners; or if the driver of any waggon, cart, or other carriage, or of any horses, mules, or other beasts of draught or burden, meeting any other waggon, cart, or other carriage, or horses, mules, or other beasts of burden, shall not keep on the left or near side of the road; or if any person shall in any manner wilfully prevent any other person from passing him, or any waggon, &c. under his care, or by negligence or misbehaviour prevent, hinder, or interrupt the free passage on any highway, or shall not keep his waggon, &c. on the left or near side of the road, for the purpose of allowing such passage; or if any person riding any horse or beast, or driving any sort of carriage, shall ride or drive the same furiously, so as to endanger the life or limb of any passenger; the offender, on conviction by the oath of one credible witness before any two justices, shall, in addition to any civil action to which he may make himself liable, for every such offence forfeit not exceeding 5*l.*, in case such driver shall not be the owner of such waggon, &c. and in case he be owner, then not exceeding 10*l.*, and in default of payment to be committed to the common gaol or house of correction to hard labour, not exceeding six weeks. Every driver so offending may be apprehended without a warrant by any person who shall see such offence committed, and be conveyed before a justice; and if he shall refuse to discover his name, the justice may commit him to the common gaol or house of correction to hard labour, not exceeding three months, or proceed against him for the penalty aforesaid by a description of his person and the offence only, without taking any name or designation, but expressing in the proceedings that he refused to discover his name.

Securing unknown Offenders.—By sect. 79, the surveyor, or any person acting under his authority, and such other person as he shall call to his assistance, or any other person witnessing the commission of the offence, may seize and detain any unknown person who shall commit any such offence, and take him forthwith before any justice.

7. *Of widening, diverting, and stopping up Highways.*

Power to widen Highways.—By sect. 82, where it shall appear, upon the view of two justices, that any highway is not of sufficient breadth, and might be widened and enlarged, they may order the same to be widened and enlarged in such manner as they shall think fit, so that the highway shall not exceed thirty feet in breadth. But this power is not to extend to pull down any house or building, or to take away the ground of any garden, lawn, yard, court, park, paddock, planted walk, plantation, or avenue to any house, or any inclosed ground set apart for building ground, or as a nursery for trees. The surveyor, with the approbation of the justices in writing, is empowered to make an agreement with the owner of the land required for widening the highway, and with any person who may be injured thereby, for the satisfaction to be made to him; and if they cannot agree, the same may be assessed by a jury at the quarter sessions. Upon payment or tender of the money so assessed, the interest of the party shall be divested in the land, which shall afterwards be deemed a public highway. But all mines, minerals, and fossils, which can be got without breaking the surface of the highway, are reserved to the owner, and also all timber and wood, to be felled and taken by the owner within a month after the order, or in default to be felled by the surveyors within the respective months before mentioned for felling timber, and laid upon the land adjoining for the benefit of the owner. When the surveyor has not money in his hands sufficient for the above purpose, two justices in cases of agreement, or the quarter sessions after verdict, may direct the surveyor to levy a further rate for such purpose, not exceeding in any one year one-third of the rate for the repair of the highways.

Costs of the Proceedings.—By sect. 83, if a jury shall give a verdict for more than shall have been offered by the surveyor, then the costs are to be paid by him out of the highway rate; but if for no more or less than such offer, then the costs are to be paid by the party refusing to accept such offer.

Where Highway may be stopped up, or diverted.—By sect. 84,

where the inhabitants in vestry assembled shall deem it expedient that any highway should be stopped up, diverted, or turned, either entirely, or reserving a bridleway or footway along the whole, or any part or parts thereof, the chairman of such meeting shall, by an order in writing, direct the surveyor to apply to two justices to view the same, and shall authorize him to pay all the expenses attending such view, &c. If any other party shall be desirous of stopping up, diverting, or turning any highway, he must, by a notice in writing, require the surveyor to give notice to the churchwardens to assemble the inhabitants in vestry, and to submit to them the wish of such person; and if such inhabitants shall agree to the proposal, the surveyor shall apply to the justices for that purpose; and in such case the expenses shall be paid to the surveyor by the said party, or be recoverable in the same manner as any forfeiture under the act.

By *sect. 85*, when it shall appear upon such view of two justices made at the request of the surveyor, that any public highway may be diverted and turned, so as to make the same nearer or more commodious to the public, and the owner of the lands through which the new highway proposed to be made shall consent thereto by writing under his hand; or if it shall appear upon such view, that any public highway is unnecessary, the justices shall direct the surveyor to affix a notice in the form of that given in the schedule (*No. 19*) to the act annexed in legible characters, at the place and by the side of each end of the highway, from whence the same is proposed to be turned, diverted, or stopped up, and also to insert the same notice in one newspaper published or generally circulated in the county where the highway shall lie, for four successive weeks next after the justices have viewed such highway, and to affix a like notice on the door of the church of every parish in which such highway or any part thereof shall lie, on four successive Sundays next after such view. After proof being given of the publication of the notices to the satisfaction of the justices, and a plan having been delivered to them at the same time particularly describing the old and the proposed new highway by metes, bounds and admeasurement thereof, which plan shall be verified by some competent surveyor, the justices shall proceed to certify under their hands the fact of their having viewed the highway, and that the proposed new highway is nearer or more commodious to the public; and if nearer, the said certificate shall state the number of yards or feet it is nearer; or if more commodious, the reasons why it is so; and if the highway is proposed to be stopped up as unnecessary, then the certificate shall state the reason why it is unnecessary; and the certificate of the justices, together with the

proof and plan so laid before them, shall, as soon as conveniently may be, be lodged with the clerk of the peace for the county, and shall, at the quarter sessions holden next after the expiration of four weeks from the day of lodging the certificate, be read by the clerk of the peace in open court; and the certificate, together with the proof and place, as well as the consent in writing of the owner of the land, shall be enrolled by the clerk of the peace amongst the records of the sessions. Any person shall be at liberty, previous to the quarter sessions, to inspect the certificate and plan, and to have a copy thereof, on payment to the clerk of the peace at the rate of six-pence per folio, and a reasonable compensation for the copy of the plan.

By *sect. 86*, where it is proposed to stop up or divert more than one highway, and the two are so connected together as that they cannot be separately stopped or diverted, without interfering one with the other, such different highways may be included in one order or certificate.

Appeal.]—By *sect. 88*, any person, who may think that he would be aggrieved by the diverting or stopping up of any highway, may appeal to the quarter sessions, upon giving to the surveyor ten days notice in writing, together with a statement in writing of the grounds of such appeal, who is required, within forty-eight hours after the receipt of such notice, to deliver a copy of the same to the party by whom he was required to apply to the justices to view the highway; but where the surveyor shall have been directed by the inhabitants in vestry assembled to apply to the justices, then he is not required to deliver a copy of such notice to any party.

By *sect. 89*, in case of appeal, the jury at the sessions are to determine, whether the proposed new highway is nearer or more commodious to the public, or whether the highway intended to be stopped up is unnecessary, or whether the party appealing would be injured or aggrieved; and the court of quarter sessions are then to make the proper order either for diverting or stopping up the highway, or for allowing the appeal. By *sect. 90*, the sessions are to award costs to the party succeeding in the appeal, which are recoverable in the same manner as any penalty imposed by the act.

By *sect. 91*, if no appeal be made, or the appeal is dismissed, the quarter sessions are to make an order for diverting, turning, or stopping up the old highway, and for purchasing the new highway, subject to such exceptions and conditions as in regard to highways to be widened. But no old highway shall be stopped up, until the new

highway shall be completed, and so certified by two justices upon view thereof; which certificate shall be returned to the clerk of the peace, and be by him enrolled.

Repair of New Highway.—By sect. 92, whenever a highway shall be turned or diverted, the parish, or other party liable to the repair of the old highway, is liable to repair the new one, without any reference whatever to its parochial locality.

Highways repaired ratione tenuræ.—By sect. 93, the provisions as to widening and enlarging, diverting, turning, or stopping up any highways, are declared to be applicable to all highways repairable by any person whatever, by reason of any tenure, &c. And where the same are widened, turned, or diverted, the justices at a special session may order them to be placed under the control and care of the parish surveyor, and they are to be kept in repair by the parish. But the highways so widened, enlarged, diverted, or turned, must be viewed by two justices, who are to make a report to the justices at a special sessions for the highways, who are, by an order under their hands, to fix the proportionate sum which shall be annually paid, or to fix a certain sum to be paid by the party to the surveyor of the parish, in lieu of repairing the part of the old highway; in default of payment of which, the surveyor may proceed for the recovery of the same, as for any penalty.

8. *When a Highway repaired ratione tenuræ may be made a Parish Highway.*

By sect. 62, any person liable to repair any highway by reason of tenure of any lands, or otherwise howsoever, or the surveyor of the parish in which such highway is situate, may, having first obtained the consent of the inhabitants in vestry assembled, apply to any justice for the purpose of making such highway a parish highway, and to be repaired by the surveyor of the parish. The justice is required to issue a summons to the surveyor, or the party so liable, to appear at the next special sessions for the highways; and if both parties appear, the justices may then proceed to determine the matter. If the surveyor, or other party, shall not appear, or shall require further time, the justices may adjourn the further consideration of the matter to the next special sessions for the highways, of which the party not appearing shall have notice, on which day the justices shall proceed to hear the parties and their witnesses; and whether either party summoned do or do not appear, shall proceed to examine and determine the matter. If they decide that the highway shall become a parish highway, they shall by an order under their hands fix the

proportion of the expenses of repairing the highway to be annually paid by the party to the surveyor, which order shall be binding. But the justices, instead of fixing such annual payments, may, by an order under their hands, fix a certain sum to be paid to the surveyor in full discharge of all claims in respect of such repairs; and in default of payment of either sum, the surveyor may proceed for the recovery thereof in the same manner as for any penalties under the act. When the sum so fixed to be paid in full discharge shall exceed 100*l.*, it must be vested in the names of the minister, churchwardens, and surveyors of the highways of the parish, in some public government securities, and the interest and dividends arising therefrom are to be applied towards the expenses of the highways within the parish. If, however, the sum so fixed to be paid shall not exceed 100*l.*, such sum, with the consent of the inhabitants in vestry assembled, and of the justices in special sessions, may be paid to the surveyor to be applied towards the repairs of the highways.

9. Of the Proceedings before Magistrates for the recovery of Penalties, &c.

Application of Fines and Penalties.—By *sect. 96*, no fine, issue, penalty, or forfeiture for not repairing the highway, or not appearing to any indictment for not repairing the same, shall be returned into the Court of Exchequer, but shall be levied by and paid into the hands of such person residing in or near the parish where the road shall lie, as the justices or court imposing such fine &c. shall order and direct, to be applied towards the repair and amendment of such highway. The person so ordered to receive such fine is required to apply and account for the same, according to the direction of such justices or court; or in default thereof, he shall forfeit double the sum received. If any fine to be imposed for not repairing the highway, or not appearing as aforesaid, shall be levied on any inhabitant of any parish, township, or place, then such inhabitant may make his complaint to the justices at a special sessions for the highways; and the justices are empowered by warrant under their hands to make an order on the surveyor of the parish for payment of the same out of the money received by him for the highway rate, who shall within two months next after service of the order on him pay unto such inhabitant the money therein mentioned (*c*).

When Justices may award Costs.—By *sect. 97*, where any surveyor, or other person, is summoned before a justice to answer any information or complaint, and is convicted thereof, the justice may

(*c*) There is great ambiguity in the wording of the last part of this section of the act.

order the payment of all costs or proceedings against him. But in case the information or complaint shall be withdrawn, or quashed, or dismissed, or if the defendant shall be acquitted of the offence, such *justices* may order that the person exhibiting the information or complaint shall pay to the defendant all such costs as to such *justice* shall seem reasonable; and in default of immediate payment such *justices* may cause the same to be levied by distress and sale. In default of distress, such *justices* may commit the party to the common gaol or house of correction, to hard labour, not exceeding one calendar month (*d*).

Proceeding by Summons.—By *sect. 101*, any justice, to whom complaint shall be made of any offence under the act, may summon the party before any two justices, who may hear and determine the complaint, although no information in writing shall have been exhibited or taken by or before such justice. And all such proceedings by summons, without information, shall be as valid and effectual as if an information in writing was exhibited.

Attendance of Witnesses.—By *sect. 102*, if any person, after having been paid or tendered a reasonable sum for his expenses, shall be summoned as a witness to give evidence before any justice, and shall refuse or neglect to appear at the time and place for that purpose appointed, without a reasonable excuse for his refusal or neglect,—or, if appearing, he shall refuse to be examined upon oath and give evidence, he incurs a penalty not exceeding 5*l*.

By *sect. 100*, inhabitants of parishes, and surveyors and other officers under the act, are competent witnesses.

Recovery and application of Penalties.—By *sect. 103*, all penalties and forfeitures, and all balances due from a surveyor, and all costs and charges, (the manner of levying, recovering, and applying of which is not otherwise particularly directed,) shall upon proof and conviction before two justices, by the oath of any credible witness, be levied by distress and sale, by warrant under the hands of two justices, before whom the party may have been convicted. The justices may order the offender to be detained until return can be conveniently made to the warrant of distress, unless he shall give sufficient security for his appearance at the return of the warrant, not being later than seven days from the time of taking such security. But in case it shall appear to the justices that the party hath not goods or chattels within their jurisdiction sufficient whereon to levy the

(*d*) This section is also very inaccurately worded, the word "*justice*" being sometimes used in the *singular*, and sometimes in the *plural* number.

penalty and costs, they may, without issuing any warrant of distress, commit the offender for such period of time, and in such and like manner, as if a warrant of distress had been issued and *nulla bona* returned thereon. But if a warrant of distress shall be issued, then in default of distress, the justices may commit the offender to the common gaol or house of correction, to hard labour, not exceeding three calendar months. One half of all penalties and forfeitures to be paid to the informer, and the other half to the surveyor of the parish, to be applied towards the repair of the highways, unless otherwise directed by the act; but in case the surveyor shall be the informer, then the whole shall be applied towards the repair of such highways.

By *sect. 104*, no distress to be deemed unlawful for want of form; and no plaintiff to recover damages for any irregularity, if tender of amends be made.

Appeal, &c.—By *sect. 105*, an *appeal* is given to the next quarter sessions against any rate, order, or conviction, upon giving fourteen days' notice, and entering into a recognizance to try such appeal.

By *sect. 107*, no rate, nor any proceeding, to be quashed for want of form, or removed (except as therein mentioned) by *certiorari*.

Amount of Fees.—By *sect. 110*, the fees allowed to the clerk of the peace, clerk to the justices, or others, are limited as follows:—the sum of 6*d.* for every information; 1*s.* for every summons or warrant, and 6*d.* for the service thereof; 6*d.* for every notice, and 6*d.* for the service thereof; 2*s.* for every warrant of distress; 1*s.* for every appointment; and 2*s.* for every conviction. But where any place is regulated by a local act of parliament, the clerk to the justices, or others, cannot demand or take a greater fee in any proceeding for the recovery of any rate, than the fee which may be directed to be taken by such local act.

Exceptions.—By *sect. 113*, the act is not to extend to turnpike roads, or to roads under local acts. And by *sect. 114*, it is not to affect the Universities; nor (by *sect. 115*) the rights and liberties of the city of London.

Forms of Proceedings.—By *sect. 118*, the forms of proceedings which are set forth in the schedule are directed to be used upon all occasions, with such additions or variations only as may be necessary to adapt them to the particular exigencies of the case; and no objection shall be taken for want of form in any such proceedings.

When Justices may apportion part of the Highway Rate to the Repairs of a Turnpike Road.—By 2 & 3 Vict. c. 81, s. 1, the

justices at any special sessions for the highways, upon information exhibited before them by the clerk or treasurer of any turnpike trust, that the funds of the trust are wholly insufficient for the repair of the turnpike road within any parish, (notice in writing of such intended information having been previously given on the part of such clerk or treasurer to the parish surveyor twenty-one days at least before such special sessions), may examine the state of the revenues and debts of such turnpike trusts, and inquire into the state and condition of the repairs of the roads within the same, and also ascertain the length of the roads, including the turnpike roads, within such parish, and how much of such road is turnpike road. And if, after such examination, it shall appear to the justices necessary or expedient for the purpose of any turnpike road so to do, then they may adjudge and order what portion (if any) of the rate levied or to be levied by virtue of the 5 & 6 Will. 4, c. 50 for repair of the highways shall be paid by the parish surveyor, and at what time, to the treasurer of the turnpike trust; such money to be wholly laid out in the actual repair of such part of such turnpike road, as lies within the parish from which it was received.

By *sect. 3*, if any parish surveyor shall refuse or neglect to pay over such portion of the said rate at the time mentioned in the order of the justices, the same may be levied upon his goods and chattels in such manner as penalties and forfeitures are authorized to be levied by the 5 & 6 Will. 4, c. 50.

By *sect. 4*, an appeal is given to the next sessions.

By *sect. 7*, this act was to continue in force for one year from the passing thereof (24th August, 1839,) and from thence until the end of the then next session of parliament (*e*).

By 3 & 4 Vict. c. 98, s. 13, all the powers and provisions of the last mentioned act, in respect of parishes, were extended to any township, place, or district maintaining its own highways, during the continuance of such last mentioned act.

*The Schedule of Forms and Proceedings directed to be used by the
5 & 6 Will. 4, c. 50, s. 118 (f).*

1. Notice to a person of his having been elected Surveyor (*g*).

A. B. Take notice, that you were, at a meeting held at — [here insert the name of the parish, &c.], on the — day of —, elected and chosen surveyor [or "one of the surveyors"] of the highways for the said [parish, &c.] for the year ensuing. Dated the — day of —.

C. D. Chairman.

To A. B. of —.

(*e*) This act is consequently expired.

(*f*) See *ante*, p. 459.

(*g*) See *ante*, p. 429.

2. *Appointment of Surveyor, with Salary (h).*

At a meeting of the inhabitants of —, in vestry assembled at —, on the — day of —, A. B. was nominated, elected, and appointed a surveyor of such parish, for the purpose of carrying into execution the provisions of an act passed in the fifth and sixth years of the reign of King William the Fourth, intituled "An Act," &c. [here set out title of act] for the year ensuing; and the salary to be allowed to the said A. B. was fixed at the sum of £—, payable on —.

Dated the — day of —.

C. D. Chairman.

3. *Appointment of Surveyor by Justices (h).*

— } At a special session for the highways, held at —, in the division &c. of
to wit. } —, by justices of the peace for the said county acting within the said
division &c., on the — day of —.

Whereas it hath appeared to us, the said justices, on the oath of A. B., an inhabitant of the parish of —, that the inhabitants of the said parish in vestry assembled have neglected [or "refused"] to nominate and elect a surveyor, in manner and for the purposes mentioned in a certain act made and passed in the fifth and sixth years of the reign of King William the Fourth, intituled "An Act" &c. [here set out title of act], [or "that the surveyor appointed by the inhabitants of the said parish is dead," or "has ceased to possess the qualification required by the said act," or "has become disqualified," or "has neglected to act," or "has refused to carry into operation the duties imposed upon him by the said act,"] we do therefore hereby appoint you, C. D. of —, surveyor for such parish for the year ensuing, [or "for the space of —"], with the salary of £— for your trouble; and you, the said C. D., are faithfully and truly to execute the office of surveyor according to the directions of the said statute. Given under our hands, the day and year first above mentioned.

To C. D.

E. F.

G. H.

4. *Form of Highway Rate (i).*

Names of Occupiers, or Persons rated.	Description of the Premises and Property rated.	Annual Value.	Sum assessed at 10d. in the Pound.
A. B.	House and Garden	£. s. d. 5 0 0	£. s. d. 0 4 2
C. D.	{ A Farmhouse, Lands, and } { Buildings	100 0 0	4 3 4
E. F.	A Warehouse	20 0 0	0 16 8
<i>And so forth.</i>			

A. B. } surveyor [or "surveyors"] of the parish
C. D. } of —.

5. *Weekly Account of Money expended on the Highways of the Parish of —, from the — to the — Day of —, 18— (k).*

Day Labour, and when performed.	Labourers Names.	Number of Days.	Rate per Day.	—	Team Work, and where done.	Rate.	—	Total Weekly Expenditure.
				£. s. d.			£. s. d.	<div>Day Labour.</div> <div>Contract } Work .. }</div> <div>Materials ..</div> <div>Team Work.</div>
Work exe- cuted by Contract.	Persons Names.	Number of Days.	Rate per Day.	—	Tradesmen's Bills.	Num- ber.	—	Trades- men's Bills }
				£. s. d.			£. s. d.	
					Rent of Pits and Quarries.	Name.	—	Rent of Pits and Quarries.. }
							£. s. d.	
Materials got and pre- pared, and from whence.	Parties Names.	Quantity.	Rate per	—				
				£. s. d.				
					Incidental Expenses.		—	Incidental Expenses }
							£. s. d.	
								£

(k) See sect. 40, ante, p. 431.

6. *Notice of intention to make Highway (l).*

I do hereby give you notice, that after the expiration of three calendar months from the date hereof, [or, if given by the clerk, &c. of a body politic or corporate, describe them], do intend to make a certain highway in the parish of —, [describing its situation and extent], and to dedicate such highway to the use of the public. Dated this — day of —.

To E. F. &c., surveyor of the parish }
of —. }

A. B.
or
C. D., [clerk, &c.]

7. *Certificate of Justices of Highway having been made in a substantial manner (l).*

We, two of the justices of the peace in and for the county of —, having viewed a certain highway lately made by A. B. in the parish of —, in the said county, situate &c. [describing its situation and extent], do hereby certify, that the same has been made in a substantial manner, and of the width required by a certain act made and passed in the fifth and sixth years of the reign of King William the Fourth, intituled, "An Act" &c. [here set out title of act]. Dated this — day of —.

C. D.
E. F.

8. *Notice to Surveyor to remove Snow, &c. (m)*

I, A. B., justice of the peace in and for the county of —, do hereby give you, the surveyor [or "surveyors"] of the parish of —, notice, that the highway leading from — to — [describe its situation] is obstructed or impeded from the accumulation of snow, [or "from the falling down of the banks on the side of the said highway," &c. as the case may be], and require you to cause the same to be removed. Dated this — day of —.

A. B. of &c.

To C. D. and E. F. &c., surveyors of the }
parish of —. }

9. *Schedules to be filled up by the Surveyors of Highways of all Parishes, and produced by them, with their Accounts, to the Magistrates at the end of every Year (n).*

State of the roads and highways	_____
_____ bridges	_____
_____ causeways	_____
_____ hedges and ditches	_____
_____ watercourses	_____
State all nuisances	_____
_____ all encroachments	_____
_____ the extent of roads and highways the } parish is liable to repair	_____ }
_____ what portion thereof has been repaired, } and where	_____ }
_____ what materials were used for such repairs	_____
_____ the expense of such repairs	_____
_____ the amount levied during the year	_____

(l) See sect. 23, ante, p. 438.

(n) See sect. 45, ante, p. 432.

(m) See ante, p. 440.

10. *Licence from Justices at Special Sessions for the Highways, for a Surveyor to dig, &c. materials upon inclosed Lands for the repair of Highways (o).*

—, } To the surveyor of the parish of —, in the hundred of —, in the
to wit. } said county.

Whereas by an act passed in the fifth and sixth years of the reign of King William the Fourth, intituled, "An Act" &c. [*here set out title of act*], the surveyor is authorized to dig, get, take, and carry away materials lying upon any lands or grounds within the parish for which he is appointed, for the use and benefit of the highways, but not without the consent of the occupier or owner of such lands or grounds, or his agent, or a licence from the justices at a special sessions for the highways: And whereas it appears to us —, her Majesty's justices of the peace for the said county, and acting within the said [hundred, &c.], at a special sessions for the highways assembled, upon the oath of C. D., the said surveyor, [*or "one of the surveyors"*], that he hath applied to A. B. of — for his consent to dig, get, take, and carry away any materials from the lands called or known by the names of — and —, in his occupation, [*or "of which he is the owner," or "in the occupation of J. K.," or "of which J. K. is the owner, and the said A. B. his agent,"*] within the said [parish &c.] for the purposes aforesaid, and that the said materials are necessary for the repairs of the highways, and that the said A. B. hath refused to permit the same to be dug, got, taken, and carried away; and the said A. B. having been duly summoned to appear before us, to show cause why such permission should not be granted, and having appeared before us accordingly, [*or "having sent his steward," or "agent," or "C. D., on his behalf to attend us on that occasion," or "but not having appeared"*], we have heard what has been alleged, and taken the said matter into consideration, and are of opinion that the said materials are necessary, and ought to be dug, got, taken, and carried away for the purposes aforesaid; therefore we do hereby give our licence to the said surveyor [*or "surveyors"*] to dig, get, take, and carry away the same accordingly, the said surveyor making satisfaction for the same, and also for the damage done to such lands, in the manner directed by the said act. Given under our hands, the — day of —, 18—.

J. P.

K. P.

11. *Licence from Justices at a Special Sessions for the Highways, to get materials for the repair of the Highways in another Parish, besides that wherein such materials are to be employed (o).*

—, } At a special sessions for the highways, held at —, in the hundred, &c.
to wit. } of —, in the said county, by justices of the peace for the said county acting within the said hundred, on the — day of —.

It appearing to us, upon evidence this day received, that sufficient materials cannot conveniently be had within the waste land, common grounds, rivers, or brooks, nor in the inclosed lands or grounds lying within the [parish, &c.] of —, in the said hundred, for the repairs of the highways within the said [parish], nor in the waste lands, common grounds, rivers, or brooks, within the [parish] of —, adjoining to the said [parish] of —, we hereby do give our licence to the surveyor [*or "surveyors"*] of the [parish] of —, to search for, dig, get, take, and carry away materials within

the inclosed lands or grounds of C. D. within the said [parish] of —, it appearing from evidence before us, that there are proper materials within the said lands for the purposes aforesaid lying convenient to the said highways, and that after such materials shall be so taken, there will be sufficient left for the use of the highways within the said [parish] of —, upon the said surveyor [or “surveyors”] making satisfaction for the same, and also for the damage done to such lands in the manner directed by the act made and passed in the fifth and sixth years of the reign of King William the Fourth, intituled, “An Act” &c. [here set out title of act], subject to such restrictions as are therein contained. Given under our hands, the day and year above written.

J. P.

K. P.

12. *Information to enable Justices to fix Boundaries of Highway lying in Two Parishes (p).*

County of } At a special sessions for the highways, holden &c.

T. S., the surveyor, [or “one of the surveyors”], of the parish of A., came before the justices aforesaid, and informed them, that there is in the said county a certain common highway leading from M. to N., and that there is a certain part of the said highway, that is to say, so much thereof as lies between a certain place called C., and a certain other place called D., being in length —, [as the case may be], one side of which last mentioned part of the said highway, adjoining to the parish of A., lies within the said parish of A., and is to be and of right ought to be repaired by the said parish of A., [or “by &c.” describing the body politic or corporate, or person liable to the repair], and that the other side of the same part of the said highway adjoining to the parish of B., lies within the parish of B., and is to be, and of right ought to be, repaired by the said parish of B. [or “by &c.”], and stating that the repair of such part of the said highway is very inconvenient to the parishes aforesaid, and the want thereof detrimental to the public; and therefore praying that such part of the said highway may be allotted and apportioned for the repair thereof by the justices aforesaid to the said several parishes of A. and B. [or “to &c.”] in the manner directed by an act passed in the fifth and sixth years of the reign of King William the Fourth, intituled, “An Act” &c. [set out title of act].

(Signed) T. S.,

one of the surveyors of parish of A.

The above application was made to us, the day }
and year first above written. J. P. }
K. P. }

13. *Summons to be subjoined to a Copy of the above Information (p).*

County of } To the surveyor [or “surveyors”] of the parish of B. in the said county,
— } any or either of them.

Whereas a certain information has been given to us, her Majesty’s justices of the peace for the said county, at a special sessions for the highways, by T. S., the surveyor [or “one of the surveyors”] of the parish of A. in the said county, a true copy whereof

is above written: These are in her Majesty's name to summon you, any or either of you, to appear before us, at —, in the said county, on the — day of —, to show cause (if any) why an allotment and apportionment of the highways therein mentioned should not be made, according to the provisions of the act referred to in the said information. Herof fail not. Given under our hands, this — day of —.

J. P.

K. P.

14. *Final Order and Adjudication, to be filed with the Clerk of the Peace (q).*

Whereas, &c.

[1. *State the original application.*

2. *The summons.*

3. *The appearance, and that the parties were heard, or their nonappearance.]*

Now we, the justices aforesaid, having fully heard and understood the premises, do declare, adjudge, and order, that the said highway shall be divided in the following manner; (that is to say), that at the distance of —, measuring from the place called C., there shall be erected certain posts or stones, E. and F., on each side of the said highway, and the whole of the said highway from the place called C. to such posts or stones shall be from time to time, and at all times hereafter, repaired by the parish of A. [or “by &c.”], and the whole of the said highway from such posts or stones to the place called D. shall from time to time, and at all times hereafter, be repaired by the parish of B. [or “by &c.”] In witness whereof we have hereunto set our hands, this — day of —.

J. P. (L. S.)

K. P. (L. S.)

15. *Notice from Surveyor to remove Nuisances (r).*

To C. D. of —.

In pursuance of the directions given by an act passed in the fifth and sixth years of the reign of King William the Fourth, intituled, “An Act” &c. I, A. B. &c., the surveyor [or “one of the surveyors”] of the parish of —, do hereby give you notice forthwith to remove the [filth, dung, ashes, rubbish, &c.] placed by you on a certain part of the Queen's highway, lying between — and —, in the [parish] of —, to the obstruction and annoyance of the said highway. Dated this — day of —.

A. B. &c.

16. *Order of Two Justices for widening a Highway (s).*

Kent, } We, —, two of her Majesty's justices of the peace for the said county,
to wit. } acting within the [hundred, &c.] of —, within the said county, having upon view found that a certain part of the highway between — and —, in the [parish, &c.] of —, in the said [hundred], for the length of — yards, or thereabouts, and particularly described in the plan hereunto annexed, is for the greatest part thereof narrow, but may be conveniently enlarged and widened by adding thereto from the lands and grounds of — and —, of the length of — yards, or thereabouts, and of the breadth of — feet, or thereabouts, particularly described in the plan

(q) See *ante*, p. 444, *sect.* 58.

(r) See *ante*, p. 449, *sect.* 73.

(s) See *ante*, p. 453, *sect.* 82.

hereunto annexed, which we think will widen and enlarge the same, and be much more commodious to the public, do hereby order that the said highway be widened and enlarged accordingly; and that the surveyor [or "surveyors"] of the [parish] of —, where the said old highway lies, do forthwith proceed to treat and make agreement with the said — and — for the recompense to be made for the said ground, and for the making such ditches and fences as shall be necessary, in such manner, with such approbation, and by pursuing such measures and directions in all respects, as are warranted and prescribed by the statute made in the fifth and sixth years of the reign of King William the Fourth, intituled, "An Act" &c.: And in case such agreement shall be made as aforesaid, we do order an equal assessment, not exceeding the rate of — in the pound, to be made, levied, and collected upon all and every the parties liable to the payment of the highway rate in the said [parish, &c.] of —, and that the money arising therefrom be paid and applied in making such recompense and satisfaction as aforesaid, pursuant to the directions of the said act.

A. B.

C. D.

17. *Certificate from the Justices to the Court of Quarter Sessions (t).*

To the justices of the peace at their general quarter sessions, to be held at —, in the said county, the — day of — 18—.

We, the within named A. B. and C. D., do hereby certify to the said court of quarter sessions, that we made and signed the within order, and that with our approbation, and by our direction, the said surveyor [or "surveyors"] has [or "have"] treated with the said — and — for the said lands required for the purposes aforesaid, but was not able to make any agreement with them, or either of them, and that he tendered to the said — the sum of £—, and to the said — the sum of £—, as a recompense for the said ground, and for the making the said ditches and fences which he [or "they and each of them"] refused to receive.

A. B.

C. D.

18. *Consent from the Owner of the Land, through which a new Highway is proposed to be made (u).*

I, A. B. of —, in the county of —, being the owner of the lands described in the plan hereunto annexed, through which part of a certain highway lying between — and —, is intended to be diverted and turned, in consideration of the sum of £—, to be paid to me for the said land and the soil thereof, do hereby consent to the making and continuing such new highway through my said lands. Given under my hand, this — day of — 18—.

19. *Form of Notice of diverting, &c. Highway (u).*

Notice is hereby given, that on the — day of — next, application will be made to her Majesty's justices of the peace assembled at quarter sessions in and for the county of —, at —, for an order for [if the order be for turning, diverting, and stopping up, &c. here state it, and describe the road ordered to be turned, diverted, and stopped up; if the order be for stopping up a useless road, here state it, and describe the road ordered to be stopped up]; and that the certificate of two justices having viewed

(t) See ante, p. 453, sect. 82.

(u) See ante, p. 454, sect. 85.

the same, &c. with the plan of the old and proposed new highway, will be lodged with the clerk of the peace for the said county, on the — day of — next.

A. B. } Surveyor [or "surveyors"]
C. D. &c. } of the parish of —.

20. *Summons for any Person or Persons to attend a Justice or Justices.*

County of —, }
to wit. } To A. B., of &c.

Whereas complaint and information hath been made upon oath before me C. D., one of her Majesty's justices of the peace in and for the said county, by E. F., of —, that &c. [*here state the nature and circumstances of the case, as far as it shall be necessary to show the offence, and to bring it within the authority of the justice, and in doing that, follow the words of the act as near as may be*]: These are therefore to require you personally to appear before me [or "the justices to be assembled at their petty sessions, [or 'special sessions for the highways'] to be holden"] at — in the said county, &c. on the — day of — next, at the hour of — in the — noon, to answer to the said complaint and information made by the said E. F., who is likewise directed to be then and there present to make good the same. Herein fail not. Given under my hand, this — day of —.

21. *Information.*

County of —, } Be it remembered, that on the — day of —, A. B., of —
to wit. } in the said county, yeoman, informeth and maketh oath before me —, one of her Majesty's justices of the peace for the said county, that —, of — in the said county [*here describe the offence, with the time and place, and follow the words of the act as near as may be*], contrary to the statute made in the fifth and sixth years of the reign of his late Majesty King William the Fourth, intituled "An Act &c." [*here set out the title of the act*], which hath imposed a forfeiture of £— for the said offence. A. B.

Taken and sworn the — day of — before me.

22. *Form of Conviction.*

County of —, } Be it remembered, that on the — day of —, in the year of
to wit. } our Lord —, at — in the county aforesaid, A. B. came before us, two of her Majesty's justices of the peace for the said county, and informed us, that E. F., of —, yeoman, on the — day of — now last past, at — in the said county, did [*set forth the fact in the manner described by the act*]; whereupon the said E. F., after being duly summoned to answer the said charge, appeared before us on the — day of —, at — in the said county, and, having heard the charge alleged against him, declared that he was not guilty of the said offence; but, the same being fully proved upon the oath of G. H., a credible witness, it manifestly appears to us, the said justices, that he the said E. F. is guilty of the offence charged upon him in the said information: It is therefore considered and adjudged by us the said justices, that he the said E. F. be convicted, and we do hereby convict him of the offence aforesaid; and we do hereby declare and adjudge that he the said E. F. hath forfeited the

sum of —, of lawful money of Great Britain, for the offence aforesaid, to be distributed as the law directs, according to the form of the statute in that case made and provided. Given &c.

[If the party refuses to appear, then, after the words "being duly summoned to answer the said charge," insert "did not appear before us, pursuant to the said summons," or "did neglect and refuse to make any defence against the said charge;" but the same being fully proved, &c. as before.]

[If the party confesses the charge, then, after the words "charge alleged against him," insert "acknowledged and voluntarily confessed the same to be true," and it manifestly appears to us, the said justices, &c. as above.]

23. Warrant to distrain for the Forfeiture.

County of —, } To the constable ["headborough," or "tithingman"] of —.
to wit. }

Whereas A. B., of — in the said county, yeoman, is this day convicted before us, two of her Majesty's justices of the peace in and for the said county, upon the oath of G. H., a credible witness, for that the said A. B. hath [here state the offence, describing it particularly in the words of the act, as near as may be], contrary to the form of the statute in that case made and provided, by reason whereof the said A. B. hath forfeited the sum of —, to be distributed as herein is mentioned, which he hath refused to pay: These are therefore, in her Majesty's name, to command you to levy the said sum of — by distress of the goods and chattels of him the said A. B., and if, within the space of four days next after such distress by you taken, the said sum of —, together with the reasonable charges of taking and keeping the same, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and out of the money arising by such sale that you do pay one half of the said sum of — to E. F., of —, who informed me of the offence, and the other half of the said sum of — to I. K., the surveyor of the parish [or "township," or "place"] where the said offence [or "neglect," or "default"] happened, to be employed towards the repair of the said highway, returning the overplus upon demand to him the said A. B., the reasonable charges of taking, keeping, and selling the said distress being first deducted; and if sufficient distress cannot be found of the goods and chattels of the said A. B. whereon to levy the sum of —, that then you certify the same to us, together with this warrant. Given under our hands, the — day of —.

C. D.

E. F.

24. Return of the Constable to be made upon the Warrant of Distress, when there are no Effects.

I, A. B., constable of the parish of —, in the county of —, do hereby certify and make oath, that by virtue of this warrant I have made diligent search for the goods of the within named —, and that I can find no sufficient goods whereon to levy the within sum of —. As witness my hand, the — day of —.

A. B.

Sworn before me, the day and year, &c.

C. D.

25. *Commitment for Want of Distress.*

County of —, } To the constable of — in the said county, and to the keeper of
to wit, } the common gaol [or "house of correction"] at — in the said
county.

Whereas A. B., of — in the said county, yeoman, was on the — day of — convicted before us, two of her Majesty's justices of the peace in and for the said county, upon the oath of E. F., a credible witness, for that he the said A. B. [*here set forth the offence*], contrary to the statute made in the fifth and sixth years of the reign of King William the Fourth, intituled "An Act, &c." [*here set out the title of the act*], by reason whereof the said A. B. hath forfeited the sum of —: And whereas on the — day of —, in the year aforesaid, we did issue our warrant to the constable of —, to levy the said sum of — by distress and sale of the goods and chattels of him the said A. B., and to distribute the same according to the directions of the said statute: And whereas it duly appears to us, upon the oath of the said constable, that the said constable hath used his best endeavours to levy the said sum on the goods and chattels of the said A. B. as aforesaid, but that no sufficient distress can be had whereon to levy the same: These are therefore to command you, the said constable of — aforesaid, to apprehend the said A. B., and him safely convey to the common gaol, [or "house of correction"] at — in the said county, and there deliver him to the keeper thereof, with this precept: And we do also command you, the said keeper, to receive and keep, in your custody, and to keep to hard labour the said A. B., unless the said sum shall be sooner paid, pursuant to the said conviction and warrant; and for so doing this shall be your sufficient warrant. Given under our hands, the — day of —, in the year of our Lord —.

C. D.

E. F.

26. *Conviction of the Driver of a Waggon for riding on the Waggon, under sect. 78(v).*

Kent, } Be it remembered, that on the — day of —, in the year of our Lord
to wit, } —, at the parish of — in the county of Kent, A. B., of &c., came
before us, J. P. and W. O., esquires, two of her Majesty's justices of the peace in and for the said county, and informed us that C. D., of &c., in the said county, labourer, on the — day of — now last past, at the parish of — aforesaid, being then and there the driver of a certain waggon, did ride upon the said waggon in and upon a certain highway there situate, called the Church Lane, not having then and there any person on foot or on horseback to guide the said waggon, and the said waggon not being then and there driven with reins, nor conducted by some person holding the reins of all the horses drawing the same; contrary to the statute made in the fifth and sixth years of the reign of his late Majesty King William the Fourth, intituled "An Act to consolidate and amend the Laws relating to Highways in that part of Great Britain called England:" Whereupon the said C. D., after being duly summoned to answer the said charge, appeared here this day before us the said justices, and, having heard the charge alleged against him, declared that he was not guilty of the said offence; but, the same being fully proved upon the oath of J. W., a credible witness in this behalf, it manifestly appears to us, the said justices, that he the said C. D. is guilty of

the offence charged against him in the said information : It is therefore considered and adjudged by us, the said justices, that the said C. D. be convicted, and we do hereby convict him of the offence aforesaid : And we do hereby declare and adjudge that he the said C. D. hath forfeited the sum of 10s. (w) of lawful money of Great Britain for the offence aforesaid, to be distributed as the law directs, according to the form of the statute in that case made and provided. Given under our hands and seals at — aforesaid, this — day of —, in the year of our Lord 1842.

27. *Information against a person, for luying Dung on the Highway, under the 72nd section (x).*

Lancashire, } Be it remembered, that on this — day of —, in the year of our
to wit. } Lord —, at Salford in the county aforesaid, A. B., of the parish of
— in the said county, yeoman, informeth and maketh oath before me J. P., esquire,
one of her Majesty's justices of the peace in and for the said county, that C. D. of the
parish aforesaid, innkeeper, on the — day of — instant, at the parish of —
aforesaid, did lay a large quantity, to wit, two cart-loads of dung and manure upon a
certain highway there situate, and to the injury, interruption and personal danger of
the persons travelling thereon, contrary to the statute made in the fifth and sixth years
of the reign of his late Majesty King William the Fourth, intituled "An Act to con-
solidate and amend the Laws relating to Highways in that part of Great Britain called
England," which hath imposed a forfeiture of a sum not exceeding 40s. for the said
offence, over and above the damages occasioned thereby. A. B.

Taken and sworn at the New Bailey Court House,
in Salford aforesaid, in the county aforesaid, this }
— day of —, 1842, before me.

28. *Conviction of a Surveyor of Highways, for not delivering over his Books and Accounts to his Successor in Office, under the 42nd section (y).*

Lancashire, } Be it remembered, that on the — day of —, in the year of our
to wit. } Lord 1842, at — in the county aforesaid, A. B. came before me J. P.,
and W. O., esquires, two of her Majesty's justices of the peace in and for the said county,
and informed us that C. D., of — in the said county, yeoman, was surveyor of highways
within the said township, for the year ending on the 25th day of March last past, and
that afterwards, to wit, on the said 25th day of March, E. F., of &c., was duly appointed
to succeed him in his said office as such surveyor as aforesaid, of which the said C. D.
then and there had notice; and that the said C. D. did not, within fourteen days after
leaving his office, deliver the books and accounts kept by him as such surveyor, verified
in such manner as is directed by the statute in such case made and provided, to the
said E. F. his successor in office, contrary to the statute made in the fifth and sixth
years of the reign of his late Majesty King William the Fourth, intituled "An Act to
consolidate &c." [the same as in form No. 26, to the end, observing that the penalty is
not exceeding 5l.]

(w) Not exceeding 5l. if the driver is not
the owner of the waggon; and if the owner,
not exceeding 10l.

(x) See ante, p. 448.
(y) See ante, p. 431.

Homicide—See Murder.

Hop-binds.

BY 7 & 8 Geo. 4, c. 30, s. 18, if any person shall unlawfully and maliciously cut, or otherwise destroy, any hop-binds growing on poles in any plantation of hops; *Felony; Transportation for life, or not less than seven years; or imprisonment not exceeding four years, with or without whipping.*

Horses.

FOR *stealing them, feloniously killing or maiming them, and for cruelty to them, see ante, title Cattle.*

Regulations as to slaughtering them.

Licence.]—By 26 Geo. 3, c. 71, s. 1, no person shall keep or use any house or place, for the purpose of slaughtering any horse, or other cattle which shall not be killed for butcher's meat, without first taking out a licence at the quarter sessions; which is only to be granted upon a certificate under the hands and seals of the minister and churchwardens, or overseers, or of the minister and two substantial householders of the parish wherein the party applying for the licence shall dwell, that he is fit and proper to be trusted with the management and carrying on such business.

Inscription over Door.]—By sect. 2, the person so licensed shall cause to be painted, or affixed over the door or gate of the house or place where he shall carry on the business, in large legible characters, his name, with the words "*Licensed for Slaughtering Horses, pursuant to an Act passed in the twenty-sixth year of his Majesty King George the Third.*"

Notice, and Time of Slaughtering.]—By sect. 3, every occupier of such licensed slaughtering house or place shall, six hours previous to the slaughtering of any horse or other cattle, and previous to the flaying any animal brought dead to such house or place, give notice in writing to the inspector appointed by the act; and no animal shall be slaughtered, killed, or flayed but between the hours of 8 o'clock A.M. and 4 o'clock P.M., from the 1st October to the 31st March, and between 6 o'clock A.M. and 8 o'clock P.M. during the remainder of the year.

Account to be kept.—By *sect. 4*, every person so licensed shall, at the time any horse or other cattle shall be brought for the purpose of slaughtering or flaying, *enter in a book* to be kept for that purpose the name, place of abode, and profession of the owner of the animal, and also of the person who shall bring it, and the reason why the same is brought to be slaughtered or flayed, which reason the person bringing the same is required to declare; the book must be at all times open for the perusal and examination of the inspector, and must also be produced before any justice of the peace, when required by warrant under his hand and seal.

Appointment and Duties of Inspectors.—By *sect. 5*, the inspector is to be appointed by the vestry of the parish, and he is required to attend at the slaughtering house to take such account and description as is before directed, and to enter it in a book of his own. If the inspector, upon examination of the animal, has reason to believe that it is free from disease, and in a sound and serviceable state, or that the same has been stolen, or unlawfully come by, he is authorized to prohibit the slaughtering of it for the period of eight days, and in the meantime to cause an advertisement to be inserted twice or oftener in the *Daily Advertiser*, or some public newspaper circulated in the county, requiring the owner of the animal to certify under his hand that he sent the animal for the purpose of being slaughtered; the expence of which advertisement is to be paid by the occupier of the slaughtering house, or in case of refusal to pay the same, then, on complaint of the inspector on oath before *one justice*, the occupier forfeits double the amount of the expence of the advertisement, to be raised by *distress*. A general form is given for the conviction.

By *sect. 6*, the inspector may at all times in the day or night, but if in the night then in the presence of a constable, enter any slaughtering house or place, and take an account of the animals brought there.

Apprehension of suspected persons.—By *sect. 7*, if any person bringing a horse or other animal to a slaughtering house shall not give a satisfactory account of himself, or the means whereby it came into his possession, or if there be any reason to suspect that the same is stolen, or otherwise unlawfully obtained, the party keeping the slaughtering house, or the inspector, may seize and detain such person, as well as the animal, and deliver him into the custody of a peace-officer, to be conveyed before a magistrate, who, if he has cause to suspect that the animal is stolen or unlawfully obtained, may commit the suspected party for six days for further examination; and if

the justice has reason to believe that the animal is stolen, or illegally obtained, the justice may commit the person to the common gaol or house of correction, to be dealt with according to law.

Penalty for Slaughtering, without Licence.—By sect. 8, if any person keeping or using a slaughtering house shall slaughter any animal for any other purpose than for butcher's meat, or shall flay any animal brought dead, without taking out a licence, or giving such notice as above mentioned, or shall slaughter or flay the same at any time except within the hours before limited, or shall not delay the slaughtering or flaying, according to the direction of the inspector; *Felony, punishable by fine and imprisonment and whipping, or transportation for seven years.*

By the 5 & 6 Will. 4, c. 59, s. 7, after reciting that great cruelty is practised, by reason of diseased, old and worn-out horses (sold or taken to knackers or slaughtermen for the purpose of slaughter) being frequently resold, or compelled to work, or kept without sufficient food, it is enacted, that if any person keeping or using any house or place for the purpose of slaughtering or killing any horse, or cattle (which shall not be for butcher's meat), shall slaughter or kill any horse, or cattle (not being for butcher's meat), without having previously taken out a licence for that purpose, and without having previously affixed over the outer gate or entrance from the public highway to such licensed premises the board and inscription prescribed by the 26 Geo. 3, c. 71, s. 2, the offender is declared liable to a *Penalty, not exceeding 5l., nor less than 10s.*, or to be subject to such punishment as is provided by that act.

Limited Time for Slaughtering, and other Regulations.—By 5 & 6 Will. 4, c. 59, s. 8, every person so keeping or using such house shall slaughter every horse or other cattle within three days next after it shall have been purchased by, or brought and delivered to, him, or any person in his service or employ, for the purpose of slaughter; and shall also until the animal be slaughtered find and provide for it good and sufficient daily food and nourishment, and shall also at the time of receiving it enter in the book required to be kept by the 26 Geo. 3, c. 71, a correct description of the colour and gender of the horse, with the date of receiving the same. And if any such horse shall be employed in any manner of work, or shall not be supplied with sufficient food; *Penalty, not exceeding 40s., nor less than 5s.*, for every day on which such offence shall be committed or continued.

The same provisions are made under this last mentioned act, for

the apprehension of offenders, the proceedings in regard to the conviction, the distribution of the penalty, &c., as are applicable to other offences under the act; for which see **Cattle, Cruelty** to.

Penalty for destroying Hides and Skins.—By 26 Geo. 3, c. 71, s. 9, if any person keeping such slaughtering house shall throw into any lime pit, or otherwise immerse in lime, or any preparation thereof, or rub therewith or with any corrosive matter, or destroy or bury, the hide or skin of any horse or other animal by him slaughtered or flayed, or shall be guilty of any offence against the act, for which no punishment or penalty is expressly provided; he shall be deemed to be guilty of a *Misdemeanor, punishable by fine and imprisonment and whipping*.

False Entries in Books.—By sect. 10, if any person so licensed shall make any false entry in the book required to be kept by him, then on conviction on the oath of *two witnesses*, before *one justice*, he is liable to a penalty not exceeding 20*l.*, nor less than 10*l.*, to be levied by *distress*, half to the informer, and half to the overseers of the poor; in default of distress, *commitment* to the house of correction to *hard labour*, not exceeding *three months*, nor less than *one*.

By sect. 11, a general form of conviction is given for this offence.

Lending Houses to unlicensed Persons.—By sect. 13, if any person shall occasionally lend any house or other place, for the purpose of slaughtering any horse, or other cattle which shall not be killed for butcher's meat, without taking out a licence, and shall be convicted before *one justice*, upon the oath of *two witnesses*, he shall forfeit not exceeding 20*l.*, nor less than 10*l.*, to be distributed as above. In default of payment, *commitment* to the common gaol or house of correction not exceeding *three calendar months*, nor less than *one*. A general form of conviction for this offence is also given by this section.

Exceptions.—By sect. 14, the act is not to extend to any currier, felt maker, tanner, or dealer in hides, who shall kill any distempered or aged horse or other cattle, or purchase any dead horse or cattle, for the *bonâ fide* purpose of selling, using, or curing the hide, in the course of his trade, nor to any farrier employed to kill aged and distempered cattle, nor to any person who shall kill any horse or cattle of his own, or purchasing any dead horse or other cattle to feed his own hounds or dogs, or giving away the flesh thereof for the like purpose.

Killing sound Horses.]—By sect. 15, if any collar maker, currier, felt maker, tanner, or dealer in hides, or farrier, or other person, shall, under colour of their respective trades or occupations, knowingly or wilfully kill any sound or useful horse, or boil or otherwise cure the flesh thereof, for the purpose of selling the same; *Penalty, not exceeding 20l., nor less than 10l.*

Witnesses.]—By sect. 16, a justice may summon *witnesses*, and in case of refusal to attend or give evidence, *Penalty 10l.; in default of payment, commitment to the common gaol or house of correction not exceeding three calendar months, nor less than one.*

By sect. 17, inhabitants of a parish are made competent witnesses.

1. *Form of Conviction prescribed by 26 Geo. 3, c. 71, s. 5, as to the Expenses of the Advertisement(z).*

Kent, } A. B. is convicted, on the oath of C. D., inspector of houses and places
to wit. } for slaughtering horses for the parish of — in the county of —, of refusing to pay the sum of —, being the expense of an advertisement [or “advertisements,” as the case may be] inserted in the Daily Advertiser [or some other public newspaper circulated in the county, as the case may be] pursuant to the directions of the statute in that case made and provided. Given under my hand and seal this — day of —.
F. G.

2. *Form of Conviction prescribed by sect. 11, for making False Entries in Books(a).*

Kent, } Be it remembered, that on this — day of —, in the year —, A. B.,
to wit. } licensed for slaughtering horses, is convicted, upon the oaths of C. D. and E. F., two credible witnesses, before me, G. H., one of her Majesty's justices of the peace in and for the county of —, of having wilfully made, or caused to be made, [as the case may be] a false entry in the book required by the statute in that case made and provided to be kept by the said A. B., whereby he [“she” or “they”] has [or “have”] forfeited the sum of —. Given under my hand and seal the day and year first above written.

3. *Form of Conviction prescribed by sect. 13, for lending a House for the purpose of slaughtering (a).*

Kent, } Be it remembered, that on this — day of —, A. O. was convicted,
to wit. } upon the oaths of two credible witnesses, before me, C. D., one of her Majesty's justices of the peace in and for the county of —, for occasionally lending a house [or “place,” as the case may be] for the purpose of slaughtering horses [or as the case may be “of slaughtering cattle for other purposes than for butcher's meat”] without a licence for that purpose first obtained, according to the statute in that case made and provided. Given under my hand and seal the day and year first above written.

(s) See ante, p. 473.

(a) See ante, p. 475

Hot-houses—See Gardens.

Housebreaking.

And see **Burglary.**

BY 7 & 8 Geo. 4, c. 29, s. 12, if any person “shall break and enter any dwelling house, and steal therein any chattel, money, or valuable security to any value whatsoever; or shall steal any such property to any value whatever in any dwelling-house, any person therein being put in fear; or shall steal in any dwelling-house any chattel, money, or valuable security, to the value in the whole of 5*l.* or more.” *Felony; Death.*

The 7 Will. 4 & 1 Vict. c. 86, s. 1 repeals so much of the above act as relates to the punishment of any person convicted of burglary, and “so much of the same act as relates to any person who *shall steal any chattel, money, or valuable security, to any value whatever, in any dwelling-house, any person therein being put in fear.*”

And, by *sect. 5*, declares, “that whosoever shall steal any property in any dwelling-house, and shall by any menace or threat put any one being therein in bodily fear, shall be guilty of *Felony*,” and liable to be *transported for not more than fifteen years, nor less than ten years, or to be imprisoned not exceeding three years.*

By comparing the enactments of the above statutes, it will be seen that the last takes no notice whatever of two descriptions of offence specified in the first, namely, that of *breaking and entering into any dwelling-house, and stealing therein any chattel, money, or valuable security, to any value whatever*; and that of *stealing in any dwelling-house any chattel, &c. to the value of 5*l.**; so that while the offence of *stealing in a dwelling-house and putting any one therein in bodily fear*, is only punishable with *Transportation*,—the offence of *breaking and entering a dwelling-house, and stealing to any value whatever*, still remains a *capital felony*.

House of Correction—See Gaol.

Hue and Cry.

HUE and Cry was the old common law process of arresting felons and such as had dangerously wounded another, by pursuing them with horn and with voice through the different towns and counties to

the sea shore. It was recognized and regulated by several statutes, which are all repealed by the 7 & 8 Geo. 4, c. 27; but the common law remedy still remains, though the proceeding may be said to have become nearly obsolete. It is not *necessary* for raising hue and cry, to have the warrant of a justice of the peace, nor would it be in many cases convenient, as the felon might escape before the warrant could be obtained; and therefore the constable may, on application from the party grieved, or any other cognizant of the felony, raise the power of the town, as well in the night, as in the day, for the apprehension of the offender. When time will permit, however, it is a good course to procure the warrant of a justice, as a justification for all those joining in the pursuit (a). The following may be the form of the warrant.

Warrant to levy Hue and Cry, on a Robbery having been committed.

Cumberland, { To all constables, and other officers, as well in the county of
to wit. { Cumberland as elsewhere, to whom the execution hereof doth or
shall belong.

Whereas A. B., of — in the county of —, yeoman, hath this day made information upon oath before me, J. P., esquire, one of her Majesty's justices of the peace in and for the said county of Cumberland, that on this present — day of —, betwixt the hours of five and six in the forenoon of the same day, at a place called — in the said county, in the Queen's highway there, two malefactors and felons, to him the said A. B. unknown, in and upon him the said A. B. feloniously did make an assault, and him the said A. B. then and there feloniously did put in great fear and danger of his life, and the sum of £— of lawful money of Great Britain from the person, and against the will, of him the said A. B., then and there violently and feloniously did steal, take, and carry away; and that one of the said malefactors and felons is a tall, strong man, and seems to be about the age of — years, is pitted in the face with the small pox, and hath the scar of a wound under his left eye, and had then on a dark brown great coat, &c., and did ride upon a bay gelding with a star on his forehead; and the other malefactor and felon, &c. [*describing him*]; and that after the said felony and robbery were committed, they the said malefactors and felons did fly and withdraw themselves to places unknown and are not yet apprehended: These are therefore to command you forthwith to raise the power of the towns within your several precincts, and to make diligent search therein for the persons above described, and to make fresh pursuit and hue and cry after them from town to town, and from county to county, as well by horsemen as by footmen, and to give due notice thereof in writing, describing in such notice the persons and the offence aforesaid unto every next constable on every side, until they shall come to the sea-shore, or until the said malefactors and felons shall be apprehended; and all persons, whom you, or any of you, shall, as well upon such search and pursuit, as otherwise, apprehend, or cause to be apprehended, as justly suspected for having committed the said robbery and felony, that you do carry forthwith before some one of her Majesty's justices of the peace in and for the county where

he or they shall be so apprehended, to be by such justice examined, and dealt with according to law. And hereof fail you not respectively, upon the peril that shall ensue thereon. Given under my hand and seal, at — in the county aforesaid, the — day of — in the year of our Lord 1842.

Hundred.

LIABILITY for Damage done by Rioters.]—By 7 & 8 Geo. 4, c. 31, s. 2, if any church or chapel, or any dissenters' chapel duly registered, or any house, stable, coachhouse, outhouse, warehouse, office, shop, mill, malthouse, hopoast, barn, or granary, or any building or erection used in carrying on any trade or manufacture or branch thereof, or any machinery (whether fixed or moveable) prepared for or employed in any manufacture or in any branch thereof, or any steam engine or other engine for sinking, draining or working, any mine, or any staith, building or erection used in conducting the business of any mine, or any bridge, waggon-way or trunk for conveying minerals from any mine, shall be feloniously demolished, pulled down, or destroyed, wholly or in part, by any persons riotously and tumultuously assembled together; the inhabitants of the hundred, or other district in the nature of a hundred, in which any of such offences shall be committed, are liable to yield full compensation to the party damaged, not only for the damage done to any of the subjects before enumerated, but also for any at the same time done to any fixture, furniture, or goods whatever, in any such church, chapel, house, &c.

Expenses incurred by High Constable.]—By sect. 7, if the high constable shall produce and prove before *two justices* residing in, or acting for, the hundred, an account of the expenses which he may have incurred in consequence of any action brought under the provisions of the act, the justices may make an order for the payment upon the treasurer of the county, as well as for payment of any taxed costs, where judgment is given against the plaintiff, and he proves insolvent.

Where Damage shall not exceed £30.]—By sect. 8, where the damage shall not exceed 30*l.*, the party damaged must, within seven days after the commission of the offence, give a notice in writing of his claim for compensation, according to the form in the schedule, to the high constable of the hundred in which the offence shall have been committed; and the high constable must, within seven days after the receipt of the notice, exhibit the same to *two justices* of the

division in which such hundred shall be situate, who shall thereupon appoint a special petty session of all the justices of the division acting for such hundred to be holden within not less than twenty-one, nor more than thirty, days next after the exhibition of such notice, for the purpose of hearing and determining any claim on account of any such damage. The high constable must, within three days after such appointment, give notice in writing to the claimant of the time and place appointed for holding the petty session, and within ten days give the like notice to all the justices acting for such hundred. The claimant is also required to cause a notice in writing, according to the form in the schedule, to be placed on the church or chapel door, or other conspicuous part of the parish or place in which such damage shall have been sustained, on two Sundays preceding the day of holding the petty session.

But in order to ground a proceeding under this last section, the party damnified, or his servant who had the care of the property damaged, is required (by *sect. 3*.) within seven days after the commission of the offence, to go before some justice residing near, and having jurisdiction over the place where the offence shall have been committed, and to state upon oath the names of the offenders, if known, and to submit to the examination of the justice touching the circumstances of the offence, and become bound by recognizance to prosecute the offenders when apprehended (*b*).

By *sect. 9*, the justices at such petty session, not being less than *two*, may hear and examine upon oath the claimant, and any of the inhabitants of the hundred, and their several witnesses; and thereupon the justices, or the major part of them, if they shall find that the claimant has sustained any damage, shall make an order for payment of the amount of the damage to him, together with his costs, and also an order for payment of the costs (if any) of the high constable or inhabitants, on the treasurer of the county, who is required to pay the same to the party therein named.

Where Offence committed in Counties of Cities, &c.—By *sect. 12*, where the offence is committed in the county of a city or town, or in any liberty, franchise, city, town or place, which does not contribute to the payment of the county rate, or which does not contribute as part of any hundred, the inhabitants shall be liable to yield compensation in the same manner as those of any hundred.

By 2 & 3 Will. 4, c. 72, the provisions of the above statute are extended to *threshing machines*.

1. *Form of Notice required (by sect. 8,) to be given to the High Constable of a Hundred or other like District, or to the Peace Officer of a County of a City or Town, or of a Liberty, Franchise, City, Town, or Place (c).*

To the high constable [or "to — one of the high constables"] of &c. [or "to —, a peace officer of &c."]

I hereby give you notice, that I intend to claim compensation from the inhabitants of [*here specify the hundred, or other like district, or county of a city &c., or liberty; franchise &c., as the case may be,*] on account of the damage which I have sustained by means of [*here state the offence, the time and place where it was committed, and the nature and amount of the damage*]; and I hereby require you within seven days after your receipt of this notice, to exhibit the same to some two justices of the peace of the county ["riding" or "division,"] of —, residing or acting for the said hundred, &c. [or if in a liberty, franchise, &c., where the justices of the county, riding, or division, have no jurisdiction, then say, "to some two justices of the peace of" naming the liberty, franchise, &c.], [or if in a county of a city, then say, "to some two justices, of the peace of" naming the county of the city, &c.] in order that they may appoint a time and place for holding a special petty session to hear and determine my claim for compensation, by virtue of an act passed in the seventh and eighth years of the reign of King George the Fourth, intituled, "An Act for consolidating and amending the Laws in England relative to Remedies against the Hundred;" and you are required to give me notice of the day, hour, and place appointed for holding such petty session, within three days after the justices shall have appointed the same. Given under my hand, this — day of —, in the year of our Lord —.

(Signed) A.B.

2. *Form of Notice required by the same Section to be placed on the Church or Chapel Door, or other conspicuous Part of the Parish, Township, or Place (as the case may be.)*

I hereby give notice, that I shall apply for compensation to the justices of the peace at a special petty sessions to be holden at — on the — day of — next, at the hour of — in the forenoon, on account of the damage which I have sustained by means of [*here state the offence, the time and place where it was committed, and the nature and amount of the damage, in the same manner as in the preceding form.*] Given under my hand, this — day —, in the year of our Lord —.

(Signed) A.B.

—◆—
Husbandry Servants—See Servants.

—◆—
Impostors—See False Pretences, Vagrants.

Impounding Cattle.

By 5 & 6 Will. 4, c. 59, s. 4, every person who shall impound or confine, or cause to be impounded or confined, any horse, ass, or other cattle, or animal, in any common pound, open pound, or close pound, or in any inclosed place, is required to find, provide, and supply the animal daily with good and sufficient food and nourishment for so long a time as it shall continue so impounded. On doing so, he may recover from the owner not exceeding double the full value of the food, by proceeding before any *one justice* within whose jurisdiction the animal shall have been so impounded, in like manner as any penalty under the same act may be recovered for the ill treatment of cattle; for which, see *ante*, **Cattle**. But he is at liberty, if he shall think fit, instead of so proceeding for the recovery of the value of the food, after the expiration of seven clear days from the time of impounding the same, to sell the animal openly at any public market (after having given three days public printed notice thereof,) for the most money that can be got for the same, and to apply the produce in discharge of the value of the food, and the expenses of the sale, rendering the overplus to the owner.

By *sect. 5*, in case the animal shall remain impounded, without sufficient daily food or nourishment, more than twenty-four hours, any person may enter the pound or place where the animal shall be confined, and supply it with food, without being liable to an action of trespass, or other proceeding.

By *sect. 6*, in case any such person, who shall so impound any animal, shall refuse or neglect to find, provide and supply for it such daily good and sufficient food and nourishment; *Penalty, 5s. per day*, recoverable before *one justice*, as thereinbefore provided with respect to other ill treatment of animals; for which see *ante*, **Cattle**.

Imprisonment—See **Commitment**.

Incendiaries—See **Arson**.

Inclosures.

SETTING out and stopping up Roads.—By 41 Geo. 3, c. 109, s. 8, the commissioners under any inclosure act are required to set out the public carriage roads and highways through and over the

lands and grounds intended to be divided allotted and inclosed, and to divert, turn, and stop up any of the roads and tracts upon and over all or any part of the said lands, so as such roads and highways shall be and remain thirty feet wide at the least, and be set out in such directions as shall appear to them most commodious to the public. The commissioners must ascertain the same by metes and bounds, and cause an accurate map of the roads signed by them to be deposited with their clerk for the inspection of all parties concerned, and give notice in some newspaper to be named in the inclosure bill, and also by affixing the same upon the church door of the parish, of having set out such roads and deposited such map, and also of the general lines of such intended carriage roads, and appoint a meeting to be held at some convenient place in or near the parish within which the inclosure is made, not sooner than three weeks from the publication of the notice, when any person injured or aggrieved may attend. If any such person shall object to the setting out of the roads, then the commissioners, together with *any justice* acting in and for the division of the county in which the inclosure shall be made, and not being interested in the same, who may attend such meeting, shall hear and determine such objection, and to order and finally direct how such carriage roads shall be set out, and either to confirm the map, or make such alterations therein as the case may require. But in case the commissioners are empowered by the inclosure bill to stop up any old or accustomed road passing or leading through any part of the old inclosures, the same shall in no case be done, without the concurrence and order of two justices acting in and for the division, and not interested in the repair of such roads; which order shall be subject to appeal to the quarter sessions.

Appointment of Surveyor, and repair of Roads, &c.—By sect. 9, the commissioners may appoint a surveyor for forming and completing the carriage roads thereby directed to be made, who is to be subject to the jurisdiction and control of the justices for the county in which such roads shall lie, and shall account to them in like manner for all monies by him received and expended, and the justices shall have the like powers of levying any such rate as may by them be thought necessary for the purposes of the act, as if such surveyor had been appointed under the General Highway Act (13 Geo. 3, c. 78) (d). If the surveyor shall neglect to complete and repair the

(d) But see now 5 & 6 Will. 4, c. 50, *ante*, p. 429.

roads directed to be formed, within the space of two years after the award of the commissioners, unless a further time not exceeding one year shall be allowed by the justices, he shall forfeit 20*l*. The inhabitants of the parish wherein such roads are situate are not chargeable towards forming or repairing the roads, except as to such proportion of the statute duty as is thereby specified, till such time as the same shall by the justices in their special sessions be declared to be fully and sufficiently completed; from which time the same shall be kept in repair as the other public roads within such parish.

Destroying Fences, &c.—By *sect. 28*, if any person shall wilfully and unlawfully break down, destroy, carry away, or damage any fence, stile, post, rail, gate, bridge, or tunnel, which may be put up or placed under the authority of any inclosure act, he is liable to a penalty not exceeding 5*l*., on conviction before *one justice*, on the oath of *one witness*; and any proprietor or occupier of lands within, or an inhabitant of, the parish, is a competent witness.

Non-attendance of Witnesses.—By *sect. 33*, the commissioners may, by writing under their hands, summon any persons before them as witnesses; and every person so summoned, who shall not appear before the commissioners pursuant to such summons without some reasonable excuse, or who shall refuse to be sworn or examined, such person or persons having been paid or had tendered to him or her or them the reasonable charges of his, her or their attendance, and being thereof convicted before one of his Majesty's justices of the peace of the county or district in which such lands are situated, upon information thereof upon oath made before any justice, shall for every such neglect be liable, on conviction before one justice, to a penalty not exceeding 10*l*., nor less than 5*l*.

But by *sect. 34*, no witness is obliged to travel above eight miles.

Penalty on Commissioners for not keeping Books of Account.—By *sect. 36*, the commissioners are required to enter in a book a particular account of all sums received from the proprietors and others during the progress of any inclosure, and also of all the expenses and disbursements which shall accrue or be made by virtue of any act for that purpose, which book shall be kept at the office of their clerk, and open at all seasonable times during the progress of the inclosure, for the inspection of any of the proprietors, without fee or reward. If the commissioners, or their clerk, shall neglect to provide and keep such book, or refuse the inspection thereof to any of the proprietors at seasonable times, and shall be convicted thereof, upon the

oath of *one witness* not interested in the intended inclosure, before one justice, he is liable to a penalty not exceeding 10*l.*, nor less than 5*l.*

Recovery and Application of Penalties.]—By *sect. 39*, all penalties may be recovered before any one justice for the county in which the lands to be inclosed are situate, residing near the parish, and not interested in the matter in question, and may be levied by distress, together with reasonable costs; all which penalties, the application whereof is not particularly directed, are to be paid and applied to and for such uses, intents or purposes as the commissioners by any writing under their hands, or by their award, shall direct.

Affidavits of Notices.]—By *sect. 42*, any two justices may take affidavits on oath of the notices required for any bill of inclosure having been given, of the consents of the parties interested therein, of the allegations contained in the preamble of such bill, and of the quantity of the lands to be inclosed; which affidavits are to be in the forms contained in the schedule to the act, as near as the circumstances of the case may admit, and are not to be subject to any stamp duties.

Recovery of Rates or Assessments in Arrear.]—By *3 & 4 Will. 4, c. 35, s. 1*, where no remedy is given by any inclosure act for the recovery of the rates or assessments after the making of the final award of the commissioners, and where the same shall be in arrear for the space of twenty-one days after a notice in writing requiring payment thereof shall have been personally served on, or left at the place of abode of, the person or persons, or one of the persons, by whom the rate or assessment ought to be paid, or at the place of abode of the tenant or occupier of the lands in respect of which the rate or assessment is made, any two justices in petty sessions, (not interested in the matter in question) are required, upon complaint made to them by any one of the persons to whom for the time being the rate or assessment ought to be paid, or by any one of the persons duly appointed to make or collect the same, to summon the person from whom any such rate shall be due, and the witnesses on both sides, and upon the appearance or contempt of the party accused, to examine him and the witnesses upon oath. The justices are empowered, by warrant under their hands and seals, to levy the amount of such rate by distress on the goods of the person so making default, or of the occupier of any lands belonging to such person, in respect

of which such rate is made, together with reasonable costs. The respective tenants of all the lands, on which such distress shall be taken, are authorized to pay any sum for which such distress shall be made, and to deduct the same out of their rent. But no distress can be made, when more than six years have elapsed from the time when the rate or assessment first became due, unless a promise in writing to pay the same shall have been given by the person liable to the payment thereof to some person duly authorized to receive the same; and no such distress shall in any case exceed the amount of the rent due.

By *sect. 2*, a form is given of the warrant of distress; and by *sect. 3*, an appeal is given to the next quarter sessions after ten days from the cause of complaint.

By *sect. 4*, the warrant of distress is not to be quashed for want of form; and by *sect. 5*, rated persons are not disqualified from giving evidence.

Commissioners, &c. to take Oaths.]—By 6 & 7 Will. 4, c. 115, s. 6, for the greater facility of inclosing open and arable fields, which recites the two previous acts of 41 Geo. 3, c. 109, and 1 Geo. 4, c. 23, no person is capable of acting as a commissioner, an umpire, or surveyor, in the execution of that, or the former acts, until he shall have taken and subscribed an oath, in the form there given, before a justice of the county in which some part of the lands intended to be inclosed are situate.

Commissioners to account.]—By *sect. 50*, the accounts of the commissioners must, once at least in every year, together with all vouchers, be laid before three justices, to be by them examined and balanced, and no charge shall be binding on any party, unless the same shall be so allowed; but the commissioners are not to retain any monies on account of any allowance, beyond one third of the amount, until after six calendar months from the delivery of their award.

By *sect. 52*, all the provisions of the two recited acts, where not altered or repealed, are extended to that act. And by *sect. 53*, an appeal is given to the quarter sessions, within six calendar months after the cause of complaint.

By 3 & 4 Vict. c. 31, some of the powers and provisions of the above acts are extended; but no alteration is made in the duties of the magistrate.

Form of Warrant of Distress prescribed by 3 & 4 Will. 4, c. 35, s. 2.

—, }
to wit. } To the constable of the —, in the county of —.

Whereas in and by a certain rate or assessment, dated the —, and made for [*here in substance describe the purposes of the rate*], A. B. of — in the parish of —, in the county of —, was duly rated and assessed in the sum of —, [*if more than one rate or assessment, recite the others in the same manner*]: And whereas it appeareth unto us, two [*or more*] of her Majesty's justices of the peace for the said county [*"riding" or "division," as the case may be*] upon the complaint of C. D. of —, the person to whom the said rate or assessment ought to be paid [*or otherwise, as the case may be*] that a notice in writing, requiring payment of the said sum [*or "said several sums"*] was personally served on the said A. B. [*or "left at the place of abode of the said A. B.," or "of the tenant or occupier of the lands or grounds,"*] to wit, on the — day of — last, and that default has been made in payment thereof for the space of twenty-one days next after such notice so served [*or "left"*], and that the same sum [*or "several sums," or "a certain part of such sum or sums," as the case may be*] is [*or "are"*] still due and unpaid: And whereas it having been duly proved to us upon oath, that the said A. B. hath been duly summoned to appear before us, the said justices, to show cause why the said rate or assessment [*or "rates or assessments"*] should not be paid; and he the said A. B. having appeared before us [*or "and he the said A. B. having neglected to appear accordingly before us," as the case may be*] according to such summons, and not having shown to us any sufficient cause why the said sum so as aforesaid due and unpaid should not be paid: These are therefore to require you forthwith to make distress of the goods and chattels of him the said A. B. wheresoever they may be found, or of the occupier or occupiers of the lands or grounds, or some part thereof, belonging to the said A. B., in respect of which the said rate or assessment [*or "rates or assessments"*] is [*or "are"*] made, which may be found in and upon such lands or grounds; and if within the space of five days next after such distress by you taken, the sum of £—, and also the further sum of —, being the costs already incurred in the premises, making together the sum of £—, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and out of the money arising by such sale that you detain the said sum of £—, and also your reasonable charges of taking, keeping, appraising and selling the said distress; rendering to him the said A. B. the overplus on demand. Given under our hands and seals, this — day of —, 1842.

—◆—

Indecency.

BY the Vagrant Act, 5 Geo. 4, c. 83, s. 4, every person wilfully exposing to view in any street, road, highway, or public place, any obscene print, picture, or other indecent exhibition; or wilfully, openly, lewdly, and obscenely exposing his person in any street, road, or place of public resort, with intent to insult any female; and every person wandering abroad, and endeavouring by the exposure of wounds or deformities to obtain or gather alms;—shall be deemed a rogue and

vagabond, and may be committed, on conviction by *one justice*, on the oath of *one witness*, to the house of correction to hard labour, not exceeding three calendar months.

For the proceedings on summary conviction and the general provisions of this act, see *post*, **Vagrants**.

By 1 & 2 Vict. c. 38, s. 2, every person who shall wilfully expose, or cause to be exposed, to public view in the window or other part of any shop, or other building, situate in any street, road, highway, or public place, any obscene print, picture, or other indecent exhibition, to public view, shall be deemed to have exposed the same within the intent and meaning of the 5 Geo. 4, c. 83, s. 4, and shall be liable to be punished under the provisions of that act.

And by the Metropolitan Police Act, 2 & 3 Vict. c. 47, s. 54, ¶ 12, every person, who, within the limits of the metropolitan police district, shall, in any thoroughfare or public place, sell or distribute, or offer for sale or distribution, or exhibit to public view, any profane, indecent, or obscene book, paper, print, drawing, painting, or representation, or sing any profane, indecent, or obscene song or ballad, or write or draw any indecent or obscene word, figure, or representation, or use any profane, indecent, or obscene language, to the annoyance of the inhabitants or passengers, is liable to a penalty not more than 40s., on conviction before *one justice*, on the oath of *one witness*.

For the proceedings on summary conviction, see *post*, **Metropolitan Police**.

Conviction (c) for Indecent Exposure of the Person, under 5 Geo. 4, c. 83, s. 4.

Kent, } Be it remembered, that on the — day of —, in the year of our Lord
to wit. } 1842, at Greenwich, in the county of Kent, A. B. of &c. is convicted be-
fore me, J. P., esquire, one of her Majesty's justices of the peace in and for the said
county of Kent, of being a rogue and vagabond, within the intent and meaning of the sta-
tute made in the fifth year of the reign of his Majesty King George the Fourth, intituled
“An Act for the Punishment of idle and disorderly Persons, and Rogues and Vagabonds,
in that part of Great Britain called England,” that is to say, for that he the said A. B.
on the — day of — instant, in a certain place of public resort called Greenwich
Park, in the parish of Greenwich in the county aforesaid, wilfully, openly, lewdly, and
obscenely exposed his person, in the view of persons resorting to the said park, with in-
tent to insult C. D. of &c., spinster; for which said offence I, the said justice, do hereby
order the said A. B. to be committed to the house of correction at — in the said
county, there to be kept to hard labour for the space of three calendar months. Given
under my hand and seal the day and year and at the place first above written.

Indictment—For forging certificates of indictment, see *Forgery*, ante, p. 312.

Information.

IN all summary proceedings before a magistrate, it is requisite that there should be an information, or complaint, which is the basis of all the subsequent proceedings.

Where any penalty is imposed on an offender recoverable on summary conviction before a magistrate, the statute imposing the penalty in general requires the information to be taken *in writing, and upon oath*; but, unless this is expressly required by the statute, it does not seem that this form of proceeding is absolutely necessary (*f*); though it is better, and more consistent with the common practice, to pursue it, unless the statute expressly dispenses with any information in writing, or complaint on oath.

And see further, title **Conviction**.

When a magistrate is liable to a *criminal information*, see post, **Justice**.

1. General Form of Information on a penal Statute.

Kent, } [*Venue*.] Be it remembered, that on the — day of —, in the year
to wit. } of our Lord —, at —, in the said county of Kent, A. B. of —, in the
county aforesaid, labourer, [“who as well for our Sovereign Lady the Queen,” or
“who as well for the poor of the parish of —, in the said county, as for himself,
doth prosecute in this behalf,”] personally cometh before me, J. P., esquire, one of her
Majesty’s justices of the peace in and for the said county, and informeth me, that C. D.
late of the parish of —, in the county aforesaid, labourer, within the space of six
months [or whatever time is limited by the statute for the prosecution of the offence] now
last past, to wit, on the — day of —, in the year aforesaid, at the parish of —,
in the county aforesaid [*here state the facts and circumstances constituting the offence,*
&c.,] contrary to the form of the statute in such case made and provided, whereby and
by force of the statute in such case made and provided, the said C. D. hath forfeited
for his said offence the sum of £— : Wherefore the said A. B. [“who sueth as
aforesaid”] prayeth the consideration of me, the said justice, in the premises, and that
the said C. D. may be convicted of the offence aforesaid, [“and that one moiety of
the said forfeiture may be adjudged to our said Lady the Queen, and the other moiety
thereof to the said A. B., according to the form of the statute in that case made and
provided;”] and that the said C. D. may be summoned to appear before me to answer
the said charge, and to be further dealt with according to law.

Taken before me on the day and year and }
at the place above-mentioned. }

A. B.

J. P.

2. *Information of a Party grieved.*

County of) The information and complaint of A. B. of &c., made on oath be-
 Surrey.) fore me, J. P., esquire, one of her Majesty's justices of the peace in
 and for the said county, at — in the same county, this — day of —, in the year
 of our Lord 1842, who saith &c. [*here state the substance of the complaint*], and there-
 fore he prays the consideration of me the said justice in the premises, and that the said
 C. D. [*the defendant*] may be summoned to appear [or "may be apprehended and
 brought"] before me, to answer the said complaint, and to be further dealt with ac-
 cording to law. A. B.

Taken before me, &c.

J. P.

—◆—
Injuries, Malicious, to Property—See **Mischief**.

—◆—
Inns—See **Alchouse**.

—◆—
Insane Persons—See **Lunatics**.

—◆—
Iron—For the penal regulations affecting the dealers in *old iron*,
 see **Marine Stores**.

—◆—
Juries.

ORDER for annexation of *Extra-parochial Places*.]—By 6 Geo. 4, c. 50, s. 7, the justices of any division, at a special petty sessions before the 1st July in any year, may make an order for annexing any extra-parochial place to any parish or township adjoining thereto for the purposes of the act; a copy of which order must, within five days from the making thereof, be served upon the churchwardens and overseers of the adjoining parish.

Justices to correct Lists.]—By sect. 10, the justices in every division are required to hold a special petty sessions, within the last seven days of September in every year, of which notice must be given by their clerk before the 20th August to the high constable, and to the churchwardens and overseers of every parish within the division, who are then to produce the lists of men qualified to serve on juries within their respective parishes and townships, and are to answer upon oath all questions put to them by the justices, who may strike out the names of all persons not qualified or liable to serve, or disabled by any incapacity, and likewise reform any errors or omis-

sions in regard to the description of any man included in the lists. But no man's name, if omitted, shall be inserted, nor shall any error or omission in the description of any man be reformed, unless upon his application, or he shall have had notice that an application for such purpose would be made to the justices, or unless the justices shall cause notice to be given to him, requiring him to show cause at some adjournment of the petty sessions, within four days, why his name should not be inserted, or why any error or omission in his description should not be reformed. When the lists shall be duly corrected, they are to be allowed and signed by any two of the justices.

By *sect. 11*, the justices may inspect and make extracts from any tax assessments or poor rates, for the purpose of reforming the lists.

Penalty on High Constable for any default.—By *sect. 44*, if any high constable shall, for fourteen days after the warrant of the clerk of the peace shall be served upon him, neglect to issue his precept to the churchwardens and overseers of any parish within his constableness, or to annex to the respective precepts such a number of the forms of return as are required by the act, or shall on due notice refuse or neglect to attend at any petty sessions, or to receive any list there tendered by the justices present, or to deliver the same to the next quarter sessions, or shall make any alteration in any list after his receipt thereof, he is liable to a penalty not exceeding 10*l.*, nor less than 40*s.*

Penalty on Churchwardens and Overseers.—By *sect. 45*, if any churchwarden or overseer shall neglect (unless prevented by sickness) to assist in making out any list, so that the same shall not be made out at the time and in the manner therein directed, or shall wilfully omit or insert the name of any man which ought to be inserted or omitted, or shall take any money or other reward for omitting or inserting any name, or shall wilfully insert a wrong description of any man; or, in case the number of forms of return delivered by the high constable shall be insufficient, shall neglect to apply to him for a sufficient number, so that the list may be duly made out and delivered; or shall neglect to fix a copy of such list duly signed, or to subjoin thereto such notice as therein required, on the principal door of any church, chapel, or other place of religious worship on any of the Sundays directed by the act; or shall refuse to allow any inhabitant of the parish to inspect such list, or a true copy thereof, *gratis*, at any reasonable time during the three weeks therein men-

tioned; or shall, on due notice, neglect to produce such list at the petty sessions, or to answer on oath such questions as shall there be put, or to attend at such petty sessions, or any adjournment thereof; or shall refuse to allow any justice, upon due request, to inspect or make any extracts from the poor rate, which may be in his custody; he is also liable to a penalty not exceeding 10*l.*, nor less than 40*s.* And the justice, before whom such offender shall be convicted of any wrongful insertion or omission, shall forthwith, in writing under his hand, certify the same to the clerk of the peace, who shall cause the list to be corrected according to such certificate, and give notice to the sheriff, who shall correct the jurors' book accordingly.

By *sect. 48*, no justice shall be summoned or impannelled as a juror to serve at any sessions of the peace for the jurisdiction of which he is a justice.

Recovery and application of Penalties.—By *sect. 55*, the above penalties, on conviction of the offender before *one justice*, may be levied by distress, and the justice may mitigate any penalty to the extent of a moiety, the whole of the penalty actually inflicted to be paid to the complainant. In default of distress, the offender may be committed not exceeding six calendar months.

By *sect. 56*, a general form of conviction is given, as under, which (by *sect. 57*) is not to be quashed for want of form, or be removable by *certiorari*. And there is the usual restriction and limitation as to actions, by the subsequent sections of the act.

Form of Conviction.

Kent, } Be it remembered, that on —, in the year of our Lord —, at —, *to wit.* } A. B. is convicted before me J. P., esquire, one of her Majesty's justices of the peace for the — of —, for that he the said A. B. did [*specifying the offence and the time and place where the same was committed, as the case shall be*]; and the said A. B. is for his said offence adjudged by me the said justice to forfeit and pay the sum of £—. Given under my hand and seal the day and year first above mentioned.

Justices.

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1. Of their Commission and Qualification.

BY the statute of 34 Edw. 3, c. 1, the ancient conservators of the peace were first given the power of trying felonies, and they then acquired the appellation of justices.

Justices of the peace are of three sorts: 1st. Those who are appointed by act of parliament; 2ndly. Those appointed by virtue of a charter, or grant, made by the King under the great seal, as mayors and other chief officers of corporate towns; 3dly. By commission under the great seal.

By their commission, the form of which was settled by all the judges in the thirtieth year of Queen Elizabeth's reign, they are appointed jointly and severally to keep the peace, and any two or more of them to inquire of and determine felonies and other misdemeanors; in which number, one of several justices, specifying his name, is directed to be always included; the words of the commission running thus:—"quorum aliquem vestrum A. B., C. D., &c. unum esse volumus,"—whence those so named were usually called justices of the *quorum*. Formerly it was customary to appoint only a select number to be of the *quorum*; but now the practice is to advance all, or most of them, to that dignity. And by 4 Geo. 4, c. 27, all acts done by two corporation justices, either in or out of sessions, are declared to be legal, although neither of them is of the *quorum*.

As the office is conferred by the King, so it is held only during his pleasure. It is determinable, therefore, 1st, by the demise of the Crown, that is (by 1 Anne, c. 8) in six months afterwards; 2ndly, by express writ under the great seal; 3dly, by writ of *supersedeas*; 4thly, by a new commission; and *lastly*, (by 1 Mary, sess. 2, c. 8,) by accession of the office of sheriff.

Qualification.—Before a justice is authorized to act under the commission in which he is named, he must, by 18 Geo. 2, c. 20, s. 1, take and subscribe an oath that he is duly qualified, besides the oath of office, and the oaths of allegiance and supremacy. This is usually done at the quarter sessions, by virtue of a writ of *dedimus potestatem*, which issues from the office of the clerk of the crown in Chancery, and is directed to some of the acting justices of the county, empowering them to administer such oaths to the new justice. But, after having once taken the oaths, he is (by 1 Geo. 3, c. 13, s. 2) not obliged to sue out another *dedimus* to take them again, by reason of any new commission; and by 7 Geo. 3, c. 9, he is also relieved from taking the oaths more than once during the same reign.

The qualification by estate referred to in the oath is fixed by the 5 Geo. 2, c. 18 at 100*l.* per annum, clear of deductions; which estate, by the 18 Geo. 2, c. 20, s. 1, may be either in freehold, or copyhold, an estate of inheritance, or for life, or even on a term for

twenty-one years, or a reversion or remainder in lands of the value of 300*l. per annum*. The necessity for this qualification, however, does not extend to corporation justices, peers, judges, the attorney or solicitor-general, or the eldest sons of peers, or of gentlemen qualified to be knights of shires, the officers of the board of green cloth, principal officers of the navy board, under-secretaries of state, the secretary of Chelsea College, heads of colleges, or the mayors of Cambridge and Oxford; all of whom may act without any qualification by estate. And by 2 & 3 Vict. c. 71, s. 3, the magistrates of the metropolis police courts may act, without having the qualification by estate of other justices.

By the above statute of 18 Geo. 2, c. 20, s. 3, if any person acts as a justice, without having taken and subscribed the oath of qualification, or without being qualified, he is liable to a penalty of 100*l.*, one moiety to the use of the poor of the parish, and the other to such person as shall sue for the same, with full costs, by action of debt in any of the courts at Westminster, in which the proof of the qualification lies on the defendant.

Under this statute it has been held, that the qualification required must be a clear estate of 100*l.* a year, in law or equity, *in possession*. And therefore, where a magistrate had taken the benefit of the Insolvent Act, and no actual surplus of his property had been declared in his favour,—though there was a fair probability that his estate would leave a sufficient surplus to uphold the qualification of a magistrate,—he was held liable to the above penalty for having acted as a magistrate, without acquiring a new qualification (*g*).

But the acts done by a justice, who has not duly qualified and taken the oaths at the sessions, are not absolutely void, although the justice is liable to the penalty; and therefore a person executing the warrant of such justice is not answerable in an action of trespass (*h*).

By 5 Geo. 2, c. 18, s. 2, no practising attorney, solicitor, or proctor is capable of acting as a justice of the peace for any county.

1. Form of the Oath of Office.

“Ye shall swear, that as justice of the peace in the county of W. in all articles in the Queen’s commission to you directed, you shall do equal right to the poor, and to the rich, after your cunning, wit, and power, and after the laws and customs of the realm, and statutes thereof made; and ye shall not be of counsel of any quarrel hanging before you: And that ye hold your sessions after the form of the statutes thereof made; and the issues, fines, and amerciaments that shall happen to be made,

(*g*) *Wright v. Horton*, Holt, N. P. Rep. 458.

(*h*) 3 B. & Ald. 266.

and all forfeitures which shall fall before you, ye shall cause to be entered, without any concealment (or embezzling), and truly send them to the Queen's Exchequer: Ye shall not let for gift, or other cause, but well and truly ye shall do your office of justice of the peace in that behalf: And that you take nothing for your office of justice of the peace to be done, but of the Queen, and fees accustomed, and costs limited by statute: And ye shall not direct, nor cause to be directed, any warrant (by you to be made) to the parties, but ye shall direct them to the bailiff of the said county, or other the Queen's officers or ministers, or other indifferent persons to do execution thereof.

"So help you God."

2. *The Oath, as to Estate.*

"I, A. B., do swear that I truly and *bonâ fide* have such an estate, in law or equity, to and for my own use and benefit, consisting of — [specifying the nature of such estate, whether messuage, land, rent, tithe, office, benefice, or what else], as doth qualify me to act as a justice of the peace for the county, riding, or division of —, according to the true intent and meaning of an act of parliament made in the eighteenth year of the reign of his Majesty King George the Second, intituled "An Act to amend and render more effectual an Act passed in the Fifth Year of his present Majesty's reign, intituled 'An Act for the further Qualification of Justices of the Peace;'" and that the same [except where it consists of an office, benefice, or ecclesiastical preferment, which it shall be sufficient to ascertain by their known and usual names] is lying or being or issuing out of lands, tenements, or hereditaments, being within the parish, township, or precinct of — [or 'in the several parishes, townships, or precincts of — in the county of —,' or 'in the several counties of —,' as the case may be]."

3. *Declaration in lieu of the Sacramental Test, under 9 Geo. 4, c. 17.*

"I, A. B., do solemnly and sincerely, in the presence of God, profess, testify, and declare, on the true faith of a Christian, that I will never exercise any power, authority, or influence, which I may possess by virtue of the office of justice of the peace, to injure or weaken the Protestant Church, as it is by law established in England, or to disturb the said Church, or the Bishops and Clergy of the said Church, in possession of any rights or privileges to which such Church or the said Bishops or Clergy are or may be entitled.

2. *Of their Jurisdiction.*

The authority of a justice depends on his commission, and on the several statutes which give him jurisdiction over the subject-matter. His commission first empowers him to conserve the peace; and thereby gives him all the power of the ancient conservators at the common law, in suppressing riots and affrays, in taking securities for the peace, and in apprehending and committing felons and other inferior criminals. It also empowers any two or more to hear and determine all felonies and other offences, which is the ground of their jurisdiction at sessions.

When two required to act.—Where a statute requires any act of

a judicial nature to be done by *two* justices, it will be void, unless *two* are present to concur and join in it. And where a statute directs certain things to be done, generally, by *justices* of the peace, and no power is expressly given to one justice to act under it, a single justice in that case has no jurisdiction to execute its provisions. He may, however, make a presentment of any offence against it at the sessions (*i*). And, though a statute appoints a thing to be done by two justices, yet if the offence be any misdemeanor, or matter against the peace, then, upon complaint made to any one justice, he may of his own authority grant a warrant for the apprehension of the offender, in order that he may be brought before himself and some other justice, for the purpose of hearing and determining the complaint (*j*).

And now, by 3 Geo. 4, c. 23, s. 2, in all cases where two or more justices are required to hear and determine any complaint, one justice is competent to receive the original information or complaint, and to issue the summons or warrant requiring the party to appear before two or more justices, as the case may require. And after adjudication by any two justices, all the subsequent proceedings to enforce obedience thereto may be enforced by either of such justices, or any other justice for the same county.

When out of his own County.]—When a justice is out of the particular county for which he is commissioned, he has no coercive magisterial power; therefore any order made by him out of his own county is not binding on the party who is the subject of it. It seems, however, that recognizances and informations *voluntarily* taken before him in any place are good (*k*). And by 28 Geo. 3, c. 49, s. 4, which enlarges the power previously given in this respect by the 9 Geo. 1, c. 7, s. 3, a county justice may act as such at any place within a city or town that is a county of itself, and which is situate within, surrounded by, or adjoining to, the county at large, for which he is appointed justice. By 1 & 2 Geo. 4, c. 63, also, a like provision is made with respect to any such city or town having exclusive jurisdiction, that is not a county of itself.

But a justice has no jurisdiction either over the offence, or the offender, when the one is committed, and the other abiding, in another county.

When, however, the offender is found in a different county from that where the offence is committed, the presence of the offender in the county where he is found gives a justice of that county jurisdic-

(i) Dalt. c. 5.

(j) Id. c. 6.

(k) 2 Hawk. c. 8, s. 28.

tion both over the offender and the offence. Thus, if a man commit a felony in the county of C., and goes into the county of W., a justice of the latter county may take his examination and the information against him in that county, and may commit him, and bind over the witnesses to give evidence at the trial, and, in short, proceed in all respects as if the offence had been committed within his jurisdiction (*l*). Upon the same principle, when a man has committed a felony on the high seas, a justice may commit him for trial at the next admiralty sessions, and bind over the witnesses to appear; or, if the offence be bailable, take a valid recognizance for the appearance of the defendant (*m*). So, if an offence is partly committed in one county and partly in another, the justice of either county has in that case jurisdiction,—as where a tenant fraudulently removes goods to avoid a distress for rent, and conceals them in another county,—in which case the justice of either county has equal power to convict the offender (*n*).

By 28 Geo. 3, c. 49, s. 1, any justice for two or more adjoining counties may act in all matters relating to either county, as effectually as if the act was done in the county to which the act more particularly relates, provided he is personally resident in one of the counties at the time of doing such act, and that his warrant, order or directions be given, in the first instance, to the constable or other officer of the county to which the same more particularly relates.

Backing Warrants.—By 24 Geo. 2, c. 55, if any person, against whom a warrant is issued, shall escape into any other county, any justice of that county, upon proof on oath of the handwriting of the justice granting the warrant, may indorse his own name thereon, which shall be a sufficient authority to the person to whom the warrant is directed, to execute it in such other jurisdiction and carry the offender before the justice who indorsed the warrant, or some other justice of that county, in case the offence be bailable, but if not, then before a justice of the county where the offence was committed.

By 33 Geo. 3, c. 55, s. 3, also, where a distress cannot be found in the jurisdiction of a justice granting a warrant for that purpose, the same may be levied on the offender's goods in another county, upon the warrant being indorsed by a justice of that county. And see *ante*, *Distress*.

Franchises and Liberties.—A county justice has, by the terms of

(*l*) 2 Hale, P. C. 51.

And see 7 Geo. 4, c. 38.

(*m*) *R. v. Mulman*, Parker, Rep. 241.

(*n*) *R. v. Morgan*, Cald. 156.

his commission, jurisdiction "as well within liberties as without;" by which is intended such liberties and franchises as have merely return of writs, and not such as are counties of themselves, as London and York. And though a town corporate may have by charter a special commission of the peace for its own limits, the county justices have a concurrent jurisdiction with the corporation justices, unless there are words of exclusion of the county justices contained in the charter, commonly called a *non-intromittant* clause (*o*); in which last case the act of a county justice is not only a breach of the franchise, but is absolutely void.

Commitment for Trial.—Since the statute of 1 & 2 Ph. & M. c. 13, the provisions of which are now incorporated and amended by the 7 Geo. 4, c. 64, and which directed the justices of the peace, in cases of *manslaughter* and *felony*, to take the examination merely of the prisoner, it has been usual for the justices, in all cases of great moment, to commit the prisoner for trial at the next assizes or gaol delivery, and only in smaller matters, as in cases of petit larceny, and offences not capital, to bind over to the quarter sessions (*p*).

Where a prisoner is charged in execution in the King's Bench prison, a magistrate has no jurisdiction to take him thence, and commit him to the county gaol on a charge of felony; but he may be there charged criminally with a magistrate's warrant (*q*).

With respect to the power of *commitment*, in general, which can legally be exercised by a magistrate, see *ante*, title **Commitment**.

Concurrent Jurisdiction.—Where two sets of magistrates have a concurrent jurisdiction as to a particular matter, and one set do any judicial act in the exercise of such jurisdiction, the other set of magistrates have no authority whatever to interfere with their proceedings. Therefore, where one set of magistrates appointed a meeting to grant ale licences, their jurisdiction was held to attach, so as to exclude the others from appointing a subsequent meeting and granting other licences; which was not only considered to be an illegal proceeding, but to be the subject of an indictment, where done wilfully, and with full knowledge of the granting of the former licences (*r*).

Supersedeas.—Where a party is once convicted by a justice, and

(*o*) *Blankley v. Winstanley*, 3 T. R. 279; *R. v. Sainsbury*, 4 T. R. 451.

(*p*) 2 Hale, 46. And see *ante*, **Commitment**, p. 177, *note*. The jurisdiction of the justices of Middlesex is not directly taken away by the 4 Geo. 4, c. 64, s. 13, (the Gaol Act,) so as to empower the

Court of Mayor and Aldermen of London to prevent the justices from committing to Newgate, as the county gaol of Middlesex; *R. v. Cope*, 1 Nev. & P. 515.

(*q*) *R. v. Woodham*, 2 Str. 828.

(*r*) *R. v. Sainsbury*, 4 T. R. 451.

committed in execution, the justice has no power to liberate him by granting a *supersedeas* (s). But where two justices were surprised into making an order for the removal of a pauper, it was held that they might issue an order of *supersedeas*, commanding the overseers to return the former order to be cancelled, to prevent the charge of an appeal (t).

Where a Justice has no Jurisdiction.—In all cases, where a matter of right, or title to property, comes in question, the magistrate (except in some few cases under the Metropolis Police Acts) has no jurisdiction (u). And a justice ought not to act in any case in which he himself is interested, but should cause the party to be convened or carried before some other justice (v). So, if any matter concerning an office held by a justice comes in question at the sessions, and he joins in making the order, it is void (x). But by 16 Geo. 2, c. 18, s. 1, a justice, although rated in any parish, may act in all matters relating to the relief, maintenance and settlement of the poor, the passing and punishing of vagrants, the repair of the highways, or the parochial taxes, levies or rates; but, by sect. 3, not in the determination of any appeal at the sessions from any order, matter or thing relating to the parish or township where the justice is chargeable. Therefore, on the trial of an appeal against an order of removal, those justices who are rated to the relief of the poor in either of the contending parishes, have not a right to vote.

Land Tax and Turnpike Trusts.—By 45 Geo. 3, c. 48, s. 3, all justices of the peace (being duly qualified) may act as *commissioners of the land tax*, although not specially named as commissioners in the act. And by 3 Geo. 4, c. 126, s. 61, all justices acting for the county, through which any turnpike road passes, may act as trustees as if named in the Turnpike Act, and (by 4 Geo. 4, c. 95, s. 34,) without the necessity of previously qualifying.

3. Of the Proceedings before Justices.

Proceedings should be in Writing, and returned.—Where a justice is empowered either to commit or convict an offender, the charge against the accused should be taken down in writing (y), and he should also make a record in writing under his hand of all the matters and proofs; and all convictions should be returned by him

(s) *R. v. Brooke*, 2 T. R. 195.

(t) *Pancras and Rumbald Parish*, 1 Str. 6.

(u) *Reg. v. Burnaby*, 3 Salk. 217; 2

Ld. Raym. 900.

(v) *Dalt. C.* 173; *Anon.* 1 Salk. 396.

(z) *Foxham Tithing case*, 2 Salk. 607.

(y) *R. v. Fearshire*, 1 Leach, 202.

to the sessions (z). And where the offender is convicted in a fine or penalty, the justice is required by the 3 Geo. 4, c. 46, s. 2 to certify the amount and particulars of the fine or forfeiture to the clerk of the peace. And see *ante*, **Conviction, Fines**.

Examinations.—By 7 Geo. 4, c. 64, ss. 2, 3, a magistrate is required to certify all examinations and depositions in cases of felony and misdemeanor, and deliver them to the proper officer of the court in which the trial of the accused is to be had; and by *sect.* 5, he is liable to be fined by the court for any neglect of his duty in this respect, upon proof of the offence, in a summary manner.

When a Summons should be issued.—In cases of summary conviction and the lighter kinds of misdemeanors, unconnected with a breach of the peace, a magistrate should issue a summons against a party, and not a warrant, in the first instance. In a variety of instances, however, where there may be reason to apprehend, from the nature of the offence, or the probable description of the offender, that the object of the prosecution would be defeated by giving him notice, the legislature has, in certain statutes, thought proper to arm the magistrate with authority to issue a warrant immediately upon the information, which, in these cases, is generally directed to be taken upon oath. Some statutes, indeed, in general terms, direct the magistrate to cause the defendant to be brought before him; which seems to imply an authority to use compulsory process. But even where a statute authorizes the issuing a warrant upon complaint, yet if it be for the non-payment of money, the magistrate should issue a summons in the first instance, before he grants a warrant for the apprehension of the party; it requiring very strong words in a statute to take away the necessity of a summons in a case of this description (a).

When the Summons is disobeyed.—Where the defendant neglects to appear upon the summons, the statute creating the offence frequently directs the magistrate to issue a warrant for his apprehension. But, although this power is not expressly given by the statute, it seems clear that a magistrate has authority to issue a warrant against a party, if he disobeys the summons; for when a statute gives a justice jurisdiction over any offence, it impliedly gives him a power to issue a warrant to bring before him the party who is accused of the offence, or who is compellable to do the thing ordained by the statute; since it cannot but be intended, that a statute giving a justice

(z) *R. v. Eaton*, 2 T. R. 285.

(a) 13 East, 61; 3 Adol. & E. 428.

jurisdiction over an offence, means also to give him the power incident to all courts, of compelling the party to come before him (*b*). But the justice may, if he thinks proper, proceed *ex parte* against the defendant, without issuing any warrant for his apprehension; in which case, however, the magistrate must enter upon a due examination of the facts upon oath, with the same formality as if the party were present and made defence (*c*).

For the general power of a justice to issue warrants, see **Apprehension of Offenders, Search Warrant, and Warrant.**

Power to administer an Oath.—Where a justice is either expressly or impliedly required by any statute to examine witnesses, with a view to the performance of any judicial act, he has not only authority, but it is his indispensable duty to examine such witnesses upon oath, according to the mode prescribed by the common law (*d*). But a magistrate is not justified in taking a voluntary affidavit in any extra-judicial matter (*e*). And by 5 & 6 Will. 4, c. 62, s. 13, he is expressly prohibited from administering or receiving any oath or affidavit touching any matter where he hath not jurisdiction or cognizance by some statute in force at the time being.

When Proceedings must not be private.—When a justice is exercising a judicial authority, as in hearing and determining in cases upon summary conviction, the proceedings should not be private; and he is therefore not warranted in removing a party from the place where such authority is being exercised, unless he interrupts the proceedings (*f*). But where a magistrate is acting merely in a ministerial capacity, or inquiring into a charge of felony previous to a committal of the party for trial, he has then a discretion, as to who shall, or shall not, be present at the examination; for it may be essential to the ends of public justice, and more especially to prevent any accomplices from escaping, that the examination should be private, and not interrupted by the interference of any person on the part of the prisoner (*g*). And in whatever capacity a justice might be acting, it was determined by the Court of King's Bench before the passing of the recent statute for allowing counsel to prisoners, that no person had a right to act as an advocate before a magistrate, or to take any part in the proceedings, without his permission,—on the ground that a justice of the peace, like any other judge, had the

(*b*) 12 Rep. 130; 2 Hawk. c. 13, s. 15; *Bane v. Methuen*, 2 Bing. 63.
 (*c*) *Reg. v. Simpson*, 10 Mod. 379.
 (*d*) 1 Hale, 586; *Dalt. C.* 66.
 (*e*) 3 Inst. 165; 4 Bl. Com. 137; 3 Chetw. Burn, 588.
 (*f*) *Daubney v. Cooper*, 10 B. & C. 237.
 (*g*) *Cox v. Coleridge*, 1 B. & C. 37; *R. v. Borron*, 3 B. & Ald. 432.

power to regulate the proceedings of his own court; Lord Tenterden observing, that even in summary proceedings the ends of justice would be sufficiently well attained by hearing only the parties themselves and their evidence, without that nicety of discussion and subtlety of argument, which are likely to be introduced by persons more accustomed to legal questions (*h*). But now, by 6 & 7 Will. 4, c. 114, s. 2, it is declared that in all cases of summary conviction, persons accused shall be admitted to make their full answer and defence, and to have all witnesses examined and cross-examined by counsel, or attorney.

For the jurisdiction of the police magistrates in and near the metropolis, see *post*, **Metropolitan Police**, and **Metropolitan Police Courts**.

For regulations as to the *fees* allowed to be taken by magistrates, see *ante*, title **Fees**.

When a justice is empowered to take a recognizance, or to bind a man over in sureties for his good behaviour, see *post*, **Recognizance**, **Surety**.

4. *Of their Liability, Indemnity, and Protection.*

A justice of the peace is, upon all occasions, strongly protected by the law in the just execution of his office; for though his judgment be wrong, yet if his intention is pure, the Court of Queen's Bench will never interfere by way of punishment.

When liable to a Criminal Information.—But where the misconduct of a magistrate proceeds not from error, but from *oppression*, or *private interest*, or *resentment*, the court will then direct a criminal information to be filed against him, upon a proper application supported by affidavits. As where a justice committed a man to prison for not paying to him an illegal fee (*i*); where he convicted a party without a previous summons (*h*); where he refused to license an innkeeper, from motives of private resentment (*l*), or corruptly granted such a licence (*m*); or where he discharged a vagrant committed by another magistrate, being actuated by corrupt motives (*n*). Where also, upon a complaint preferred before a magistrate by his own bailiff against a labourer on his own farm, for refusing to perform his work according to his contract, the magistrate convicted

(*h*) *Collier v. Hicks*, 2 B. & Adol. 663.

(*i*) *R. v. Jones*, 1 Wils. 7.

(*k*) *R. v. Allington*, 1 Str. 678; *R. v. Venables*, 2 Ld. Raym. 1407; *R. v. Harwood*, 2 Str. 1088.

(*l*) *R. v. Williams*, 3 Burr. 1317; *R. v. Hann*, id. 1716.

(*m*) *R. v. Holland*, 1 T. R. 692; 2 Str. 1210.

(*n*) *R. v. Brooke*, 2 T. R. 190.

and sentenced him to punishment, the Court of King's Bench granted a rule to show cause why a criminal information should not be issued against him, and only declined making it absolute, from a consideration that under all the circumstances the conduct of the magistrate appeared to proceed from an error in judgment, rather than a bad intention; but at the same time they severely reprehended his conduct, in sitting in judgment upon a charge in which he himself must be considered to have been the real complainant, although in form the complaint was preferred by his bailiff,—declaring it to be a most abusive interpretation of the law, that a man should presume to erect himself into a criminal judge over the servants of his own farm, for an offence against himself; and the court only discharged the rule, on condition that the magistrate should pay all the costs of the application (*o*). There are also instances upon record of magistrates being punished by the more summary method of attachment, for acting as judges in matters, in which they themselves were parties (*p*).

In some cases, likewise, the court has granted a criminal information against a justice for *gross and wilful negligence* in the performance of his duty, although his motives may not have appeared to be decidedly corrupt; as for refusing to take the deposition of a witness against a person, who had uttered treasonable language (*q*); for refusing to obey the directions of an act of parliament, the provisions of which are positive and direct, and leave him no discretion (*r*); for improperly bailing a man committed for trial on a charge of a capital felony (*s*); and against the mayor of a corporation, for wilfully absenting himself from the borough sessions, which could not be held without him (*t*). And where the *public safety* is at stake, a magistrate is in that case punishable for *gross neglect* in the performance of his duties. Thus, where he is called upon to suppress a riot, he is required by law to do all he knows to be in his power, and which can reasonably be expected from a man of honesty, and of ordinary prudence, firmness, and activity, under the circumstances. Mere purity of intention is, on such an occasion, no defence, if he fails in his duty; and even if he acted upon the best professional advice he could obtain on legal and military points, that, though a circumstance

(*o*) *R. v. Hoseason*, 14 East, 608.

(*p*) *Wright v. Crump*, 2 Ld. Raym. 766.

(*q*) 1 Bl. 37.

(*r*) *R. v. Newton*, 1 Str. 413. But a

mandamus seems to be the proper remedy in this case; see *post*, p. 505.

(*s*) *R. v. Clarke*, 2 Str. 1216.

(*t*) *R. v. Fox*, 1 Str. 21.

in his favour, would not amount to a defence, if his conduct has been faulty, in point of law (*u*).

And see *post*, *Riot*, as to the duty of a magistrate in this respect.

When not.]—But an irregularity, however great, unless it partakes of a corrupt or personal motive, or proceeds from wilful obstinacy, will not be visited by the court with a criminal information; the question always being upon an application of this kind, not whether the act done might, upon full and mature investigation, be found strictly right,—but from what motive it proceeded; whether from a dishonest, oppressive, or corrupt motive,—under which description fear and favour may generally be included,—or from mere mistake, or error. In the former case, alone, a magistrate becomes the object of punishment. For, to punish as criminal any person, who, in the gratuitous exercise of a public trust, may have fallen into error or mistake, belongs only to the despotic ruler of an enslaved people, and is wholly abhorrent to the principles of English jurisprudence (*x*).

When and how moved for.]—The motion for the information must be made in the first term after the act complained of, if an issuable term, and the motion must be made sufficiently early for the magistrate to show cause against it during the same term (*y*). But if the first term is not an issuable one, then the motion may be made in the second term after the offence committed (*z*). And if the act complained of occurred during the *same term*, then it is no objection that the application is made at the latter end of the term (*a*). Where the facts took place twelve months before the application, the court refused to grant a criminal information, although the prosecutor, in excuse for the delay, stated that the facts had not come to his knowledge until very shortly previous to the application (*b*).

But the Court of Queen's Bench will not entertain an application for a criminal information against a magistrate, unless six days previous notice has been given to him of the intended motion; and if the notice name a day for the motion, which is less than six days distant, such defect is not aided by the party forbearing to move within six days (*c*). The magistrate is also entitled to this notice, although matters of a private nature may be mixed up with the complaint against him in his public character (*d*).

When the application is made against the justice, for improperly

(*u*) *R. v. Pinney*, 3 B. & Adol. 947.

(*x*) *R. v. Borron*, 3 B. & Ald. 434.

(*y*) *R. v. Marshall*, 13 East, 322.

(*z*) *R. v. Harris*, 13 East, 270.

(*a*) *R. v. Smith*, 7 T. R. 80.

(*b*) *R. v. Bishop*, 5 B. & Ald. 612.

(*c*) *Ex parte Fentiman*, 2 Ad. & E. 127.

(*d*) *R. v. Heming*, 3 B. & Adol. 666.

convicting a party, the conviction must be previously removed by *certiorari* (e). And it is an established rule, that the court will not interfere, by information, against a magistrate for misconduct in convicting a party of an offence, unless the complainant accompanies the motion with an affidavit negating his being guilty of the offence (f). That affidavit must also state the belief of the deponent, that the magistrate acted from corrupt motives; for circumstances of strong suspicion are not sufficient (g). In some cases, also, the court will require the party making the application to relinquish his civil action for the same cause (h).

Costs.—The costs of the motion for an information are entirely in the discretion of the court. And in some cases, although the court refuse the rule, yet, if the conduct of the magistrate has been irregular, they will discharge it, without ordering the complainant to pay the magistrate his costs, and will sometimes order the magistrates to pay all the costs of the application (i).

Judgment.—If the magistrate is found guilty upon the trial of the information, he must appear in the Court of Queen's Bench to receive judgment, unless some special reason be assigned by affidavit for dispensing with his appearance (k). Nor is that sufficient, unless it be clear that the punishment will be only pecuniary: where that is the case, the personal attendance may be dispensed with, upon the clerk in court undertaking for the fines (l).

Application to Lord Chancellor.—Besides the proceeding by criminal information, where a justice is guilty of any wilful misconduct, the party grieved may also apply to the Lord Chancellor to put him out of the commission (m).

Mandamus.—Where a justice refuses to proceed in any matter, which he is required or authorized to do by act of parliament, and his refusal does not proceed from any corrupt or improper motive, the proper course for the party complaining is to move for a *mandamus*, and not a criminal information, to compel him to proceed (n). But the writ will in no case be granted, to command magistrates to do that which may render them liable to an action; as to compel them to grant a warrant of distress, for enforcing the payment of a certain

(e) *R. v. Heber*, 2 Str. 915.

(f) *R. v. Webster*, 3 T. R. 388.

(g) *R. v. Williamson*, 3 B. & Ald. 582.

(h) *R. v. Fielding*, 2 Burr. 719.

(i) *Id.*; *R. v. Hoseason*, 14 East, 605.

(k) *R. v. Harwood*, 2 Str. 1088.

(l) *R. v. Hann*, 3 Burr. 1786.

(m) *Ex parte Rook*, 2 Atk. 2.

(n) *R. v. Todd*, 1 Str. 530; *R. v.*

Justices of Somerset, 2 Str. 992.

sum from the rector of a parish to the surveyor of the highways for composition in lieu of statute duty, as occupier of the tithes of the parish,—where the question was in itself doubtful, whether the rector (who had let the tithes by parol to the different occupiers of land in the parish) was liable in law to be rated to the repair of the highways, or not (*o*). But, where a local act for rebuilding a church required a magistrate, in case of nonpayment of the rate to be made for that purpose, to grant a warrant of distress, which he refused, on the ground that tithes were not rateable under the act, the Court of King's Bench, thinking the point quite clear, granted a *mandamus* to compel him to issue such warrant (*p*).

When a justice of the peace is liable to an *action* for any act done by him in the execution of his office, see *ante*, title *Actions*.

Protection from Slander, &c.—A justice is not to be slandered and abused, with impunity; and general terms of abuse, which would not be actionable or indictable when spoken of a private individual, are actionable when spoken of a justice in the execution of his office (*q*). Thus, where a person made use of the expression, "You are a rogue and a liar," to a justice in the execution of his office, this was held to be an indictable offence, and one, also, for which the justice might commit the offender, as for a contempt. The distinction in these cases appears to be, that when the words are spoken in the presence of the justice, whilst in the execution of the duties of his office, he may commit the offender for the contempt; but when spoken behind his back, the party can only be proceeded against by indictment, or action (*r*). And see *ante*, *Commitment*.

Reelman—See *Servants*.

King's Evidence—See *Accomplices*.

King's Stores—See *Stores of War*.

Labourers—See *Servants*.

(*o*) *R. v. Dayrell*, 1 B. & C. 485.

(*p*) *R. v. Barker*, 6 Ad. & E. 388.

(*q*) *Aston v. Blagrove*, 1 Str. 617; 2

Lord R. 1369; *Kent v. Pocock*, 2 Str. 1168.

(*r*) *R. v. Revel*, 1 Str. 420.

Lamps—For the offence of breaking them, see *post*, **Lighting and Watching, Metropolitan Police.**

Landlord and Tenant.

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1. Removal of Goods by Tenant to avoid a Distress.

POWER to follow and seize the Goods.]—By 11 Geo. 2, c. 19, s. 7, where the goods of a tenant are fraudulently or clandestinely conveyed by him off the premises, to prevent the landlord from distraining for arrears of rent, and are put in any house or other place locked up, fastened, or otherwise secured, so as to prevent the same from being taken as a distress, the landlord, or other person by him empowered to distrain, (first calling to his assistance a constable,—and in case of a dwelling-house, oath being also first made before a justice of a reasonable ground to suspect that such goods are therein) may in the day-time break open and enter into such house or place, and seize the goods, as he might have done if they had been put in any open field.

Under this section, it is usual for the magistrate, after receiving the complaint on oath of the landlord, to grant a warrant to the constable, reciting the complaint, and requiring him to assist the landlord, or his agent, in seizing the goods, and breaking open the dwelling-house for that purpose.

Forfeiture of double the Value.]—And, in order to deter tenants, and others assisting them, in such fraudulent removal of their goods, it is provided by *section 3*, that if any tenant or lessee shall fraudulently remove and carry away his goods as aforesaid, or if any person shall wilfully and knowingly aid or assist him in such fraudulent carrying away or carrying off any part of his goods, or in concealing the same, he shall forfeit to the landlord double the value of the goods, to be recovered in an action of debt.

But by *sect. 4*, where the goods shall not exceed the value of 50*l.*, the landlord, or his agent, may exhibit a complaint in writing before

two justices residing near the place whence the goods were removed, or where the same were found, (not being interested in the lands or tenements whence the goods were removed), who may summon the parties concerned, examine the fact, and all proper witnesses upon oath, and in a summary way determine whether any person be guilty of the offence charged against him, and inquire in like manner of the nature of the goods; and upon full proof of the offence, the justices may, by order under their hands and seals, adjudge the offenders to pay double the value of the goods to the landlord, or his bailiff, servant, or agent, at such time as the justices shall appoint; and if the offender, having notice of the order, shall neglect to do so, they may by their warrant levy the same by distress; in default of which they may commit him to the house of correction, to be kept to hard labour, for six months, unless the money so ordered to be paid shall be sooner satisfied.

Appeal.].—By *sect. 5*, an appeal is given from the order of the justices to the next general or quarter sessions. And by *sect. 6*, where the party appealing shall enter into a recognizance, with one or two sureties, in double the sum so ordered to be paid, with condition to appear at such sessions, the order of the justices shall not be executed against him in the meantime.

It has been decided, that the provisions of the act apply to the goods of the *tenant* only, and not to those of a stranger (*s*); and that, in order to bring a case within the statute, the removal must have taken place *after the rent became due* (*t*). If there be a sufficient distress left on the premises, the case is then not within the act, and it lies on the landlord to prove that there was not such sufficient distress (*u*). Nor is the mere removal of itself fraudulent; therefore, to justify the landlord in pursuing the goods, he must show that they were removed with a view to elude a distress (*x*).

Justices, either of the county *from* which the goods have been removed, or of that *in which* they are concealed, may convict the offending party (*y*). The order of the justices need not enumerate or specify the particular goods alleged to have been removed; (*z*) but it must show on the face of it, that the party removing the goods was tenant (*a*); and it should state that the complainant was the party's landlord, agent, or servant (*z*). It is not necessary to set out the

(*s*) *Thornton v. Adams*, 5 M. & S. 38.

(*t*) *Rand v. Vaughan*, 1 Bing. N. C. 767.

(*u*) *Parrey v. Duncan*, 1 M. & M. 533.

(*x*) *Parrey v. Duncan*, 7 Bing. 243.

(*y*) *R. v. Morgan*, Cald. 156.

(*z*) *R. v. Rabbits*, 6 D. & R. 341.

(*a*) *R. v. Davis*, 5 B. & Ad. 551.

evidence in the order; and the order cannot, as in the case of a conviction, be returned to the sessions in an amended form (b).

Stopping Carts, &c.—By 2 & 3 Vict. c. 47, s. 67, any constable, within the Metropolitan Police District, may stop and detain, until due inquiry can be made, all carts and carriages which he shall find employed in removing the furniture of any house or lodging between the hours of eight in the evening and six in the following morning, or whenever the constable shall have good grounds for believing that such removal is made for the purpose of evading the payment of rent.

1. *Complaint in Writing of Goods clandestinely removed to avoid a Distress, under 11 Geo. 2, c. 19, s. 4 (c).*

Kent, } Be it remembered, that on the — day of —, at &c., A. B. of &c.
to wit. } comes before me, J. P., esquire, one of her Majesty's justices of the peace in and for the county of Kent, and residing near the town of Greenwich, in the county aforesaid, and complains that C. D. of &c. hath fraudulently and clandestinely removed and conveyed away certain goods and chattels of him, the said C. D., not exceeding the value of 50*l.*, from a certain messuage and premises in the occupation of the said C. D., situate at Greenwich, in the county aforesaid, to prevent the said A. B. from distraining the said goods and chattels for arrears of rent due to the said A. B. for the said messuage and premises: And that E. F. of —, yeoman, and G. H. of —, yeoman, wilfully and knowingly aided and assisted the said C. D. in such fraudulent and clandestine removal, and in fraudulently and clandestinely concealing the same.

Exhibited at —, the — day of —, }
before me. A. B. }

2. *Summons thereon.*

Kent, } To the constable of —.
to wit. }

Whereas a complaint in writing hath been this — day of — exhibited before me, J. P., esquire, one of her Majesty's justices of the peace in and for the county of Kent, and residing near the town of Greenwich in the county aforesaid, by A. B. of —, gentleman, setting forth that C. D. of —, yeoman, hath fraudulently and clandestinely removed and conveyed away certain goods and chattels of him, the said C. D., not exceeding the value of 50*l.* from a certain messuage, &c. [*as in the above complaint*]: These are therefore to command you forthwith to summon the said C. D., E. F., and G. H., to appear before me, and one other justice of the peace, at —, on the — day of —, at the hour of —, to answer the matter of the said complaint. Given under my hand and seal, at —, the — day of — 1842.

(b) *R. v. Justices of Cheshire*, 5 B. & Adol. 439.

(c) See *ante*, p. 507.

3. *Order of Justices thereon.*

Kent, } Be it remembered, that on the — day of —, in the year of our Lord
to wit. } —, at — in the county of —, A. L. of &c., gentleman, in his own
 person came before me, J. P., esquire, one of her Majesty's justices of the peace in and
 for the said county, residing near the place whence the goods and chattels hereinafter
 mentioned were removed, and not being interested in the dwelling-house whence the
 goods and chattels were removed as hereafter mentioned, and exhibited his complaint
 in writing, that C. D. of Greenwich, in the county of Kent, yeoman, for the space of
 the half of a year next before and ending at and upon the 25th day of December last,
 held and enjoyed a certain dwelling-house and premises, with the appurtenances,
 situate in — street, in the parish of Greenwich, in the said county of Kent, as
 tenant thereof to the said A. B., under a demise thereof theretofore made, at the yearly
 rent of £—, payable to the said A. B. [half yearly] on the 24th day of June, and
 the 25th day of December, in every year by even and equal portions; and that on the
 25th day of December last, the sum of £— of the rent aforesaid for the half of a
 year then expired, became and was, and still is due, in arrear, and unpaid from the
 said C. D. to the said A. B.; and that the said sum of £— so being in arrear and un-
 paid, the said C. D. afterwards, to wit, on the — day of — last, and on divers
 other days and times afterwards and before the day of exhibiting the said complaint,
 fraudulently and clandestinely conveyed away and carried off from the said demised
 premises divers articles of household furniture, being the goods and chattels of the said
 C. D., not exceeding the value of £50 in the whole, to prevent the said A. B. from dis-
 training the same for the said arrears of rent; and that E. F. of —, and G. H. of
 —, did then and there wilfully and knowingly aid and assist the said C. D. in such
 fraudulent and clandestine removal of the said goods, and in fraudulently and clandes-
 tinely concealing the same, contrary to the form of the statute in such case made and pro-
 vided; whereby and by force of the said statute, the said C. D., E. F., and G. H. have
 forfeited and become liable to pay to the said A. B. double the value of the said goods:
 Whereupon the said C. D., E. F., and G. H., after being duly summoned to answer
 the said complaint, appeared on the — day of —, at — in the said county, be-
 fore me the said J. P., and K. P., esquire, (another of her Majesty's justices of the peace
 in and for the said county, and residing near the place whence the said goods and
 chattels were removed, and not being interested in the said premises whence the same
 were removed,) and, having heard the charge contained in the said complaint, declared
 that they were not guilty of the said offence: Whereupon we, the said justices, did
 proceed to examine into the truth of the charge contained in the said complaint; and
 one credible witness, to wit, A. W. of —, in the county of —, yeoman, upon his
 oath deposeth and saith, in the presence and hearing of the said C. D., E. F., and G. H.,
 that [*here state the evidence (b), and as nearly as possible in the words used by the wit-
 nesses*]: Therefore it manifestly appearing to us, that the said C. D., E. F., and G. H.

(b) It will be necessary to have proof of the particulars of the demise, the amount of the rent in arrear, the fact of removing the goods, their value, and the circumstances of privacy or fraud attending the removal. And where the complaint is against a third person for assisting in the

removal, the fact of such assistance, and its particular manner, must be also proved; or, if the complaint against him is for concealing the goods, then the fact of the concealment, and the place where the goods were found concealed, must be likewise proved.

are guilty of the said several offences charged against them in the said complaint, we do hereby convict them of the offences aforesaid, and do declare and adjudge that they the said C. D., E. F., and G. H. have, and each of them hath forfeited the sum of £—— of lawful money of Great Britain (being double the value of the said goods and chattels in the said information mentioned) for the several offences aforesaid, which sum we do hereby direct the said C. D., E. F., and G. H. to pay forthwith to the said A. B., according to the form of the statute in that case made and provided. Given under our hands and seals the —— day of ——, in the year of our Lord ——.

J. P. (L. S.)

K. P. (L. S.)

4. *Warrant of Distress, in case of non-compliance with the above Order.*

County of }
Kent. } To the constable of ——.

Whereas C. D. of &c., yeoman, E. F. of ——, yeoman, and G. H. of ——, yeoman, were, and each of them was, by a certain order in writing under our hands and seals, bearing date the ——, ordered to pay forthwith to A. B. of &c., the sum of £——, being double the value of certain goods and chattels of the said C. D., which the said C. D. was before us duly convicted of having fraudulently and clandestinely removed and conveyed away from a certain messuage in his occupation at Greenwich, in the county aforesaid, to prevent the said A. B. from distraining the said goods and chattels for arrears of rent, and which the said E. F. and G. H. were also duly convicted before us of having wilfully and knowingly aided and assisted the said C. D. in so fraudulently and clandestinely removing, and also in concealing the same: And whereas the said C. D., E. F., and G. H., after having had due notice of our said order, have refused and neglected to pay, and have not paid, the said sum of £——, or any part thereof, pursuant to the said order: These are therefore to command you to levy the said sum of £—— by distress and sale of the goods and chattels of the said C. D., E. F., and G. H.; and we do hereby order and direct the goods and chattels so to be distrained to be sold and disposed of within —— days, unless the said sum of £—— for which such distress shall be made, together with the reasonable charges of taking and keeping such distress, shall be sooner paid. And you are hereby also commanded to certify to us what you shall do by virtue of this our warrant. Given under our hands and seals at —— the —— day of ——.

J. P. (L. S.)

K. P. (L. S.) (c).

5. *Constable's Return thereupon of the Want of Distress.*

County of } I, W. B., constable of ——, do hereby certify that I have made dili-
Kent. } gent search for, but do not know of, nor can find, any goods and chattels
of ——, by distress and sale whereof I may levy the sum of £——, pursuant to the
annexed warrant for that purpose. Dated the —— day of ——.

Sworn before me, &c.

J. P.

W. B.

(c) By 3 Geo. 4, c. 23, s. 2, the warrant of distress may be issued by one justice, see *ante*, *Conviction*, p. 194.

6. *Commitment thereupon to the House of Correction.*

County of } To the constable of —, and also to the keeper of the house of cor-
Kent. } rection at —.

Whereas C. D., E. F., and G. H. were, by an order dated the — day of —, under the hands and seals of us, J. P. and K. P., esquires, two of her Majesty's justices of the peace in and for the county of Kent, and residing near the town of Greenwich, in the county aforesaid, ordered to pay the sum of £— to A. B., or to his bailiff, servant, or agent, on or before the — day of —, being double the value of certain goods and chattels of the said C. D., which the said C. D. was before us duly convicted of having fraudulently and clandestinely removed and conveyed away from a certain messuage in his occupation at Greenwich, in the county aforesaid, to prevent the said A. B. from distraining the said goods and chattels for arrears of rent due to the said A. B. for the said messuage; And whereas the said E. F. and G. H. were also duly convicted before us, of having wilfully and knowingly aided and assisted the said C. D. in so fraudulently and clandestinely removing and conveying away the said goods and chattels, and in concealing the same; And whereas the said C. D., E. F., and G. H., after having had notice of our said order, refused and neglected to pay the said sum of £— pursuant thereto, whereupon we, the said justices, issued our warrant to the constable of —, commanding him to levy the said sum of £—, by distress and sale of the goods and chattels of the said C. D.; And whereas it appears to us by the return of the said constable to the said warrant, that he hath made diligent search for, but doth not know of, nor can find, any goods and chattels of the said C. D., E. F., and G. H., or any of them, by distress and sale whereof the said sum of £— may be levied, pursuant to our said warrant: These are therefore to command you, the said constable, to apprehend the said C. D., E. F., and G. H., and convey them to the house of correction at — aforesaid, and deliver them there to the said keeper of the said house of correction. And we also command you, the said keeper, to receive the said C. D., E. F., and G. H. into your custody in the said house of correction, and there keep them to hard labour, without bail or mainprize, for the space of six months, unless the said sum of £—, so ordered to be paid as aforesaid, shall be sooner satisfied. Given under our hands and seals at —, the — day of —.

(d) J. P. (L. S.)
K. P. (L. S.)

7. *Recognizance on Appeal against the above Order.*

Kent, } Be it remembered, that on the — day of —, in the — year of
to wit. } the reign of our Sovereign Lady Victoria, by the grace of God, of the
united kingdom of Great Britain and Ireland Queen, defender of the faith, C. D. of &c.,
E. F. of &c., G. H. of &c., I. K. of &c. (e), personally came before us, J. P. and
K. P., esquires, two of her Majesty's justices of the peace in and for the said county,
and acknowledged themselves to owe to our said Lady the Queen, the sum of £— (f)
to be levied of their goods and chattels, lands and tenements, to the use of our said
Lady the Queen, her heirs and successors, if the said C. D., E. F., and G. H. or either
of them, shall make default in the condition following:

(d) See note to last precedent. (f) Double the sum ordered to be
(e) There must be one surety, at the paid.
least, for each party appealing, by *sect. 6.*

The condition of this recognizance is such, that whereas the said C. D. is this day duly convicted before us, the above-named justices, of having on the — day of — last, fraudulently and clandestinely removed and conveyed away the goods and chattels of the said C. D., not exceeding the value of £50, from a certain dwelling-house in his occupation, situate at Greenwich in the county aforesaid; and the said E. F. and G. H. are also duly convicted before us of wilfully and knowingly aiding and assisting in such removal, and in fraudulently concealing the same, so as to prevent A. B. of &c., from taking and seizing the same for arrears of rent due to the said A. B. from the said C. D. for certain premises situate at Greenwich aforesaid; for which offences the said C. D., E. F., and G. H. have been adjudged to forfeit to the said A. B. the sum of £—, being double the value of the said goods and chattels so carried off and concealed: Now if the said C. D., E. F., and G. H. shall personally appear at the next quarter sessions of the peace to be held at —, for the said county, and commence and prosecute an appeal against the said order, and pay such costs as shall be then and there awarded by the said court against the said C. D., E. F., and G. H., and not depart without leave of the court, then this recognizance to be void.

Acknowledged before us, J. P.
K. P.

8. *Complaint, under 11 Geo. 2, c. 19, s. 7, of Goods being fraudulently removed and locked up in a Dwelling-house, to prevent them from being taken as a Distress for Rent (g).*

County of Kent, } Be it remembered, that on this — day of —, A. B. of
to wit. } —, yeoman, comes before me, J. P., esquire, one of her Majesty's justices of the peace in and for the county of Kent, and residing near the town of Greenwich in the county aforesaid, and upon his oath complaineth and saith, that certain goods and chattels of C. D. of —, yeoman, have been fraudulently and clandestinely conveyed and carried away by the said C. D., or some other person or persons, from a certain dwelling-house in the occupation of the said C. D., situate at Greenwich aforesaid, to prevent the said A. B. from distraining the said goods and chattels for arrears of rent due to the said A. B. for the said dwelling-house; and that the said goods and chattels have been put and placed in a certain dwelling-house of one G. O. at —, and locked up, fastened and secured, so as to prevent the said goods and chattels from being taken and seized as a distress for the said arrears of rent; and that the said A. B. hath a reasonable ground to suspect, and doth suspect, that the said goods and chattels are now in the said dwelling-house of the said G. O.

Taken and sworn at —, the — } A. B.
day of —, before me }

9. *Warrant of Seizure thereon.*

County of Kent, } To the constable or other peace officer of —.
to wit. }

Whereas A. B. of —, yeoman, has this — day of —, exhibited his complaint on oath before me, J. P., esquire, one of her Majesty's justices of the peace in and for the said county, and residing near to the town of Greenwich in the said county, that certain goods and chattels of C. D. of —, yeoman, have been fraudulently and clan-

(g) See *ante*, p. 507.

destinely conveyed and carried away by the said C. D., or some other person or persons, from a certain dwelling-house of the said C. D. situate at Greenwich aforesaid, to prevent the said A. B. from distraining the said goods and chattels for arrears of rent due to him for the said dwelling-house; and that the said goods and chattels have been put and placed in a certain dwelling-house of one G. O. at —, locked up, fastened and secured, so as to prevent the said goods and chattels from being taken and seized as a distress for the said arrears of rent; and that the said A. B. hath a reasonable ground to suspect, and doth suspect, that the said goods and chattels are put, placed or kept in the dwelling-house of the said G. O.: These are therefore to command you, and each of you, to aid and assist the said A. B., or other person by him empowered for that purpose, to take and seize the said goods and chattels as a distress for the said arrears of rent so due and owing as aforesaid; and for that purpose, if necessary, in the day-time to break open and enter into the said dwelling-house of the said G. O., demand of admittance having been first duly made according to law. Given under my hand and seal at —, the — day of —.

2. *Extortion in Distraining for Small Rents.*

Limited charges.—By 57 Geo. 3, c. 93, s. 1, no person making any distress for rent, where the sum due shall not exceed 20*l.*, shall have, take, or receive out of the produce of the goods distrained upon, or from any person whatsoever, any more costs and charges than such as are set forth in the schedule: viz. levying distress 3*s.*; man in possession per day 2*s.* 6*d.*; appraisement, whether by one broker or more, 6*d.* in the pound on the value of the goods; stamps, the lawful amount thereof; all expenses of advertisements, if any, 10*s.*; catalogues, sale and commission, and delivering of goods 1*s.* in the pound on the net produce of the sale. And no person shall make any charge whatsoever for any act, matter, or thing above mentioned, unless such act shall have been really done.

Penalty for taking more.—By sect. 2, if any person shall levy, take, or receive, or retain or take from the produce of the goods sold, any other or greater costs and charges than those above mentioned, or make any charge for any thing not really done, the party aggrieved may apply to a justice, who is required to summon before him the person complained of, and to examine into the matter of the complaint; and if it shall appear to him, that the party complained of has offended against the provisions of the act, he shall order treble the amount of the monies so unlawfully taken to be paid by the offender to the party aggrieved, together with full costs; and in case of non-payment, the justice may issue a warrant of distress, in default of which he may commit the offender to the common gaol or prison, until such order be satisfied.

By sect. 3, the justice is empowered to summon witnesses, who, if

they disobey the summons, or refuse to be examined, are liable to a penalty not exceeding 40s., to be levied and paid, and with the same power of commitment, as is directed with respect to the principal party.

Costs and other Proceedings.—By sect. 4, if the justice shall find that the complaint is not well founded, he may order costs not exceeding 20s. to be paid to the defendant; which order is to be carried into effect as the order on the original complaint. But the justice is not to make any such order against the landlord, unless the landlord shall have personally levied the distress. The party aggrieved is not barred from any other remedy, excepting so far as any complaint preferred by virtue of the act shall have been determined by order of the justice, which may be given in evidence under the plea of the general issue, in all cases where the matter of such complaint shall be made the subject of any action.

By sect. 5, the order on the complaint must be made in the form given in the schedule, and may be proved before any court by proof of the signature of the justice; and the order, as regards witnesses, may be made in such form as to the justice may seem fit.

By sect. 6, brokers are required to give copies of the charges of any distress signed by them to the party on whose goods any distress is levied, although the amount of the rent demanded shall exceed 20l.

In distraining for Taxes, Rates, Tithes, &c.—By 7 & 8 Geo. 4, c. 17, the provisions of the above act are extended to distresses for any land tax, assessed taxes, poor's rates, church rates, tithes, highway rates, sewer rates, or any other rates, taxes, impositions, or assessments whatsoever, in all cases where the whole of the several sums sought to be levied shall not exceed 20l.

Where the Distress is within the Metropolitan Police District.—By 2 & 3 Vict. c. 71, s. 39, on complaint to any magistrate of the police courts by any person who shall, within the metropolitan police district, have occupied any house or lodging by the week or month, or whereof the rent does not exceed 15l. by the year, that his goods have been taken from him by an unlawful distress, or that the landlord, or his broker or agent, has been guilty of any irregularity or excess in respect of such distress, the magistrate may summon the party complained against; and if upon the hearing of the matter it shall appear to the magistrate that such distress was improperly taken, or unfairly disposed of, or that the charges made by the party having distrained, or attempted to distrain, are contrary to law, or that the

proceeds of the sale of such distress have not been duly accounted for to the owner thereof, the magistrate may order the distress so taken, if not sold, to be returned to the tenant, on payment of the rent which shall appear to be due, at such time as the magistrate shall appoint; or if the distress shall have been sold, then he may order payment of the value thereof, deducting the rent which shall so appear to be due. The landlord or party complained against, in default of compliance with the order, shall forfeit to the party aggrieved the value of such distress, not being more than 15*l*.

For the proceedings as to the recovery of this forfeiture, see *Metropolis Police Courts*.

1. *Order and Judgment of the Justice, before whom the Complaint is preferred, where the Order and Judgment is for the Complainant, as directed by the 57 Geo. 3, c. 93, s. 5, and given in the Schedule to that Act.*

County of } In the matter of the complaint of A. B. against C. D., for a breach
 —. } of the provisions of an act of the fifty-seventh year of his Majesty King George the Third, intituled "An Act" [*here insert the title of the act*]; I, E. F., a justice of the peace for the county of —, and acting within the division of —, do order and adjudge that the said C. D. shall pay to A. B. the sum of £ —, as a compensation and satisfaction for unlawful charges and costs levied and taken from the said A. B. under a distress for rent; and the further sum of — for costs on this complaint.
 (Signed) E. F.

2. *Order and Judgment of the Justice, where he dismisses the Complaint as unfounded, and with or without Costs, as the case may be.*

County of } In the matter of the complaint of A. B. against C. D., for the breach
 —. } of the provisions of an act of the fifty-seventh year of his Majesty King George the Third, intituled "An Act" [*here insert the title of the act*]; I, E. F., a justice of the peace for the county of —, and acting within the division of —, do order and adjudge that the complaint of the said A. B. is unfounded [*if costs are given, add, "and I do further order and adjudge that the said A. B. shall pay unto the said C. D. the sum of — for costs"*].
 (Signed) E. F.

The Act also contains the following Schedule of the Limitation of Costs and Charges on Distresses for small Rents.

	s.	d.
Levying distress	3	0
Man in possession, per day	2	6
Appraisement, whether by one broker or more, 6 <i>d</i> . in the pound on the value of the goods.		
Stamp, the lawful amount thereof.		
All expenses of advertisements, if any such	10	0
Catalogues, sale, and commission, and delivery of goods, 1 <i>s</i> . in the pound on the net produce of the sale:		

3. *Tenants deserting the Premises demised to them.*

Putting Landlord in Possession.—By 11 Geo. 2, c. 19, s. 16, if any tenant at rack rent, or where the rent reserved shall be full three-fourths of the yearly value of the demised premises, who shall be in arrear for one year's rent, shall desert the premises, and leave the same uncultivated or unoccupied so as no sufficient distress can be had to countervail the arrears of rent, *two justices* (having no interest in the premises) may, at the request of the landlord, or his bailiff or receiver, go upon and view the same, and affix on the most notorious part of the premises notice in writing what day (at the distance of fourteen days at the least) they will return to take a second view; and if on such a second view the tenant, or some person on his behalf, shall not appear and pay the rent, or there shall not be sufficient distress on the premises, then the justices may put the landlord into possession, and the lease to the tenant shall from thence be void.

By 57 Geo. 3, c. 52, the provisions of the above statute are extended to tenants who are in arrear one *half year's rent*, and hold under any demise or agreement, whether written or verbal, although no power of re-entry be reserved to the landlord for nonpayment of rent.

Appeal.—By 11 Geo. 2, c. 19, s. 17, the tenant may appeal to the next justices of assize, or if in London to the Court of King's Bench or Common Pleas.

The justices ought to make a record in this, as in all other cases, of the whole proceedings.

Where the Premises are in the Metropolitan Police District.—By 3 & 4 Vict. c. 84, s. 13, none of the police magistrates within the metropolitan police district shall be required to go upon any deserted lands, tenements, or hereditaments, for the purpose of viewing the same, or affixing any notices thereon, or of putting the landlord into the possession thereof, under the provisions of the above acts; but in every case within such district, in which two justices are authorized to put the landlord into the possession of such deserted premises, one of the police magistrates, upon the request of the landlord or his bailiff or receiver made in open court, and upon proof given to the satisfaction of such magistrate of the arrear of rent and desertion of the premises by the tenant, may issue his warrant, directed to one of the constables of the metropolitan police force, requiring him to go upon and view the premises, and to affix thereon the like notices as under the above acts are required to be affixed by two justices; and

upon the return of the warrant, and upon proof being given to the satisfaction of the magistrate before whom the warrant shall be returned, that it has been duly executed, and that neither the tenant, nor any person on his behalf, has appeared and paid the rent in arrear, and that there is not sufficient distress upon the premises, such magistrate may issue his warrant to a police constable, requiring him to put the landlord into the possession of the premises. Every constable, to whom any such warrant shall be directed, is required duly to execute and return the same; and upon the execution of such second warrant, the lease of the premises to such tenant, as to any demise therein contained only, shall thenceforth be void.

1. Information and Complaint, under the 11 Geo. 2, c. 19, s. 16, to recover Possession of deserted Premises, upon view of two Justices, where no sufficient Distress can be made for the Arrears of Rent (f).

County of Kent, } The information and complaint of C. D., of — in the county
to wit. } of —, taken this — day of —, 1842, before us J. P. and
K. P., esquires, two of her Majesty's justices of the peace in and for the county of Kent: The said C. D. upon his oath saith, that he the said C. D. did demise at a rack rent, a certain messuage and dwelling-house, situate in — street, at — in the county aforesaid, and that A. B., of — in the county of —, is the tenant holding the same at such rack rent; and that on the — day of — last past, there was in arrear and due unto him the said C. D., from him the said A. B., as the tenant of the said demised premises, one — year's rent thereof, and that he the said A. B. hath deserted the said demised premises, and left the same unoccupied, so as no sufficient distress can be had to countervail the said arrears of rent; whereupon the said C. D. now requests J. P. and K. P., esquires, two of her Majesty's justices of the peace for the said county, to go and view the said premises, and to afford him a proper remedy in that behalf, according to the form of the statute in that case made.

Taken before us, this said — day of —, 1842.

C. D.

2. Notice to be affixed on the Premises being deserted.

To A. B.

Take notice, that upon the complaint of C. D., of — in the county of —, made unto us, J. P. and K. P., esquires, two of her Majesty's justices of the peace in and for the said county, that you the said A. B. have deserted a certain messuage and dwelling-house, situate, lying, and being in — street, at — aforesaid, in the county aforesaid, demised unto you at a rack rent by the said C. D., and that there is now in arrear and due from you unto the said C. D. one — year's rent for the said demised premises, and that you have left the same unoccupied, so that no sufficient distress can be had thereon to countervail the said arrears of rent, we, the said justices (having neither of us any interest in the said demised premises) have, on the said complaint and at the request of the said C. D., this day come upon and viewed the said premises, and do find the said complaint to be true; and that on the — day of this present month

of — we shall return to take a second view of the said premises; and if upon such second view you, or some person on your behalf, shall not appear and pay the said rent in arrear, or there shall not be sufficient distress on the said premises, that we the said justices will put the said C. D. into the possession of the said premises, according to the form of the statute in such case made and provided. In witness whereof we have hereunto set our hands and seals, and have caused this notice to be affixed on the outer door of the said dwelling-house, the same being the most notorious part of the said premises, this — day of —, in the — year of our Lord 1842.

3. *Record of putting the Landlord in Possession.*

County of Kent, } Be it remembered, that on the — day of —, in the year of
to wit. } our Lord 1842, at — in the said county, C. D., of &c., complained unto us J. P. and K. P., esquires, two of her Majesty's justices of the peace in and for the said county, that he the said C. D. did demise at a rack rent unto A. B., of &c., a certain messuage and dwelling-house, situate, lying, and being in — street, at — aforesaid, in the county aforesaid, and that on the said — day of — in the year aforesaid there was in arrear and due unto the said C. D. from him the said A. B., the tenant of the said demised premises, one — year's rent for the same, and that he the said A. B. had deserted the said demised premises and left the same unoccupied, so as no sufficient distress could be had to countervail the said arrears of rent; whereupon the said C. D. then and there requested of us, the said justices, that a due remedy should be afforded to him, according to the form of the statute in that case made and provided; which complaint and request having been heard by us, the said justices, and duly considered, we, the said justices, (having neither of us any interest in the said demised premises,) on the — day of —, in the year aforesaid, did personally go upon and view the said demised premises, and then and there upon our own proper view did find the said complaint to be true, and did then and there affix on the most notorious part of the said demised premises, to wit, upon the outer door of the said dwelling-house, a notice in writing under our hands and seals, that we, the said justices, on the — day of — next, would return to take a second view thereof; upon which said last mentioned day we did return and take a second view of the said premises, and there upon our own proper view did find that he the said A. B. did not appear, nor any person on his behalf, to pay the said rent in arrear, and that there was no sufficient distress upon the said premises, nor upon any part thereof, to countervail the said arrear of rent: Therefore we, the said justices, on the — day of — aforesaid, at — aforesaid, in the county aforesaid, did put the said C. D. into possession of the said demised premises, according to the form of the statute in such case made and provided. In witness whereof we, the said justices, have to this record set our hands and seals, this — day of —, in the year of our Lord 1842.

4. *Where Tenants refuse to deliver up Possession, after their Tenancy is determined.*

Where Justices may give Possession.—By 1 & 2 Vict. c. 74, s. 1, when the term or interest of any tenant at will, or for any term not exceeding seven years, either where there is no rent reserved, or where the rent does not exceed 20l. a-year, provided no fine shall have been

reserved, shall have ended or been duly determined, and such tenant, or the occupier of the premises, shall neglect or refuse to quit and deliver up possession, the landlord or his agent may cause the party to be served with a written notice (in the form set forth in the schedule) of his intention to proceed to recover possession under the authority of the act; and if the tenant or occupier shall not thereupon appear at the time and place appointed, and show to the satisfaction of the justices reasonable cause why possession should not be given, then, on proof by the landlord, or his agent, of the holding and determination of the tenancy,—and where the landlord's title has accrued since the letting of the premises, then on proof of the right by which he claims possession,—and of the service of the notice, and of the neglect or refusal of the tenant or occupier, any *two justices in petty sessions* may issue a warrant to the constables directing them within a given period, not less than twenty-one, nor more than thirty, days, to enter (by force, if needful) into the premises, and give possession of the same to the landlord or agent. The entry upon such warrant must not be made on a Sunday, Good Friday, or Christmas Day, or except between the hours of nine in the morning and four in the afternoon. And the party to whom the warrant is granted is not protected from any action by the tenant or occupier, if he has not lawful right to the possession of the premises. The act is not to affect the right to which any person may be entitled as outgoing tenant by the custom of the country, or otherwise.

Service of Summons.—By *sect. 2*, the above notice may be served either personally, or by leaving it with some person being in and apparently residing at the place of abode of the person holding over, but the party serving it must read it over to the person served, and explain the purport and intent thereof. If the party holding over cannot be found, and his place of abode is either not known, or admission thereto cannot be obtained, then the posting up of the summons on some conspicuous part of the premises so held over shall be deemed good service.

Where the Execution of the Warrant may be stayed.—By *sect. 3*, where the party to whom the warrant is granted, has not lawful right to the possession of the premises, the obtaining of such warrant shall be deemed a trespass by him against the tenant or occupier, although no entry shall be made. And in case any tenant or occupier will become bound with two sureties, in such sum as the justices shall think reasonable, to sue the party to whom the warrant is granted with

effect and without delay, and to pay all costs in case he fails in the action, execution of the warrant shall be stayed until judgment in such action of trespass; and if upon the trial of the action a verdict shall pass for the plaintiff, it shall supersede the warrant, and the plaintiff shall be entitled to double costs.

Proceedings on the Bond.—By *sect. 4*, the bond is to be made to the landlord or his agent, and approved and signed by the justices; and if it become forfeited, or if upon the trial of the action the judge shall not indorse upon the record in court that the condition of the bond has been fulfilled, the obligee may bring an action and recover thereon.

Protection of Justices, &c.—By *sect. 5*, no action can be brought against the justices for granting, or the constable for executing, the warrant, by reason that the person on whose application the same was granted had not lawful right to the possession of the premises.

Protection of Landlord.—By *sect. 6*, where the landlord at the time of applying for the warrant has a lawful right to the possession, he shall not be deemed a trespasser by reason of any irregularity, but be liable to an action on the case for any special damage proceeding from the irregularity.

The following forms are given in the schedule to the act:—

1. *Notice of Owner's intention to apply to Justices to recover Possession.*

I, —, owner [or “agent to — the owner,” as the case may be], do hereby give you notice, that unless peaceable possession of the tenement [shortly describing it], situate —, which was held of me [or “of the said —,” as the case may be] under a tenancy from year to year [or as the case may be], which expired [or “was determined by notice to quit from the said —,” or otherwise, as the case may be] on the — day of —, and which tenement is now held over and detained from the said —, be given to me —, the owner [or “agent”], on or before the expiration of seven clear days from the service of this notice, I shall on — next, the — day of —, at — of the clock of the same day at —, apply to her Majesty's justices of the peace acting for the district of — [being the district, division, or place in which the said tenement or any part thereof is situate] in petty sessions assembled, to issue their warrant directing the constables of the said district to enter and take possession of the said tenement, and to eject any person therefrom. Dated this — day of —.

(Signed)

To Mr.

[“owner” or “agent”].

2. *Complaint before two Justices.*

The complaint of —, owner [or “agent,” &c. as the case may be], made before us, two of her Majesty's justices of the peace acting for the district of —, in petty

sessions assembled, who saith that the said — did let to — a tenement, consisting of —, for —, under the rent of £—, and that the said tenancy expired [or “ was determined by notice to quit, given by the said —,” *as the case may be*] on the — day of —; and that on the — day of —, the said — did serve on — [*the tenant overholding*] a notice in writing of his intention to apply to recover possession of the said tenement (a duplicate of which notice is hereunto annexed) by giving, &c. [*describing the mode in which the service was effected*]; and that notwithstanding the said notice, the said — refused [or “ neglected ”] to deliver up possession of the said tenement, and still detains the same.

Taken the — day of —, before us,

(Signed)

(Signed)

N.B. *A duplicate of the notice of intention to apply, is to be annexed to this complaint.*

3. Warrant to Peace Officers to take and give Possession.

Whereas [*set forth the complaint*] we, two of her Majesty's justices of the peace, in petty sessions assembled, acting for the — of —, do authorize and command you, on any day within — days from the date hereof [“ except on Sunday, Christmas Day, and Good Friday,” *to be added if necessary*], between the hours of nine in the morning and four in the afternoon, to enter (by force, if needful), and with or without the aid of —, the owner [or “ agent,” *as the case may be*], or any other person or persons whom you may think requisite to call to your assistance, into and upon the said tenement, and to eject thereout any person, and of the said tenement full and peaceable possession to deliver to the said —, the owner [or “ agent”]. Given under our hands and seals, this — day of —, 1842.

To —, and all other constables and peace
officers acting for the district of — in
the county of —. }

5. Tenants damaging the demised Premises.

By the Metropolis Police Courts Act, 2 & 3 Vict. c. 71, s. 38, every person who shall occupy, or shall have occupied, any house or lodging within the metropolitan police district, as tenant thereof, and who shall wilfully or maliciously do any damage to the premises, or to any furniture thereof not being the property of such tenant or occupier, shall, upon complaint made to one of the magistrates of the police courts within one calendar month after the commission of the offence, or the end of the tenancy or occupation, forfeit and pay such sum of money as shall appear to the magistrate to be a reasonable compensation for the damage done, not more than 15*l.*,—to be paid to the landlord or party aggrieved.

For the proceedings as to the recovery of this forfeiture, see *post*, **Metropolis Police Courts.**

Land-tax.

By 7 & 8 Geo. 4, c. 75, s. 1, all justices of the peace (being duly qualified) may act as Commissioners of the Land-tax, though not specially named as commissioners in the act. And see 3 & 4 Will. 4, c. 95.

Precepts, &c. to Assessors.—By 38 Geo. 3, c. 5, s. 8, the commissioners are to direct their precepts to such inhabitants, high constables, petty constables, bailiffs, and other officers, and such number of them as they shall think most convenient, to be assessors, requiring them to appear before the commissioners at such time and place, not exceeding eight days after the date of such precept, as they shall appoint.

Occupiers of Property belonging to different Owners.—By 20 Geo. 3, c. 17, s. 3, at the meeting for appointing overseers, the commissioners shall cause to be delivered to each assessor a printed form of an assessment, according to which they shall make their assessment. And if any person shall hold or occupy messuages, lands, or tenements belonging to different owners, the same shall be separately and distinctly rated in such assessment, that the proportion of the land tax to be paid by each separate owner respectively may be known and ascertained.

Who liable to pay.—By 38 Geo. 3, c. 5, s. 17, the tenant is to pay the tax, and deduct it out of the rent.

Regulations as to Appeals.—All appeals given by the statutes for assessing and collecting the land-tax are to the commissioners, who are directed to hold petty sessions for that purpose.

By 38 Geo. 3, c. 5, s. 8, every collector, within ten days after the receipt of the duplicates, must cause notice in writing of the time and place appointed by the commissioners for hearing appeals to be fixed on the door of the church or chapel in every parish within his district, that all persons over-rated may know when and where to appeal. And every person intending to appeal must give notice to one of the assessors in writing.

Power of Distress and Commitment.—By sect. 17, if any person shall refuse or neglect to pay any sum whereat he is assessed, upon demand by the collector, according to the precept to him delivered by the commissioners, the collector may levy the sum assessed by distress and sale of the goods of such person, or distrain upon the lands and premises so charged, without any further authority from

the commissioners for that purpose. And if any person shall refuse or neglect to pay his assessment for ten days after demand, or shall convey away his goods or other personal estate, whereby the money cannot be levied, two of the commissioners may, by warrant under their hands and seals, commit such person (except a peer or peeress) to the common gaol until payment of the money assessed and the charges.

Penalty on Assessors and Collectors.—By sect. 19, if any assessor, collector, or other person, shall wilfully neglect or refuse to perform his duty, or shall be guilty of fraud or abuse, three commissioners may fine him not exceeding 40*l.*, which shall not be taken off but by a majority of the commissioners who imposed it, and may be levied by distress, in default of which he may be committed by two commissioners, until payment. All fines are to be paid to the Receiver-General.

The 5 Geo. 4, c. 15, contains many enactments and regulations, as to who shall be *rated*, and the mode of *rating*, &c.

The 1 & 2 Will. 4, c. 21, relates to *double assessment*.

And the following acts relate to the *redemption* of the land-tax, viz. 42 Geo. 3, c. 116; 46 Geo. 3, c. 133; 49 Geo. 3, c. 67; 53 Geo. 3, c. 123; 53 Geo. 3, c. 142; 54 Geo. 3, c. 173; 57 Geo. 3, c. 100; 1 Will. 4, c. 11, s. 5; and 4 & 5 Will. 4, c. 60, s. 4.

Larceny.

LARCENY, or the crime of feloniously stealing, is of two kinds; the one called *simple* larceny, or plain theft; the other *mixed* or *compound* larceny, which includes in it the aggravation of a taking from the house or person.

To constitute larceny, there must be an actual taking or severance of the thing from the possession of the owner; but the least removal of it from the place where it is deposited is a sufficient asportation, though it be not quite carried away. Where the goods, however, are tied or fastened to any thing, there must be an actual severance of the thing, to make the asportation complete. The taking, also, must be *lucri causâ*, and *invito domino*.

But the main ingredient in the offence of larceny is the *animus furandi* of the taker, which can only be determined by the circumstances under which the thing is taken.

The usual and most direct evidence of a felonious intent is, where the party takes the goods *clandestinely*,—or where they are, shortly

after the taking, found *concealed* in his possession,—or where he *falsely denies* either the taking, or the possession.

All domestic animals, except those of a base nature, as dogs, cats, monkees, &c. may be the subject of larceny; and the stealing of these baser kind of animals is now made punishable on summary conviction. When it is felony to steal the animal itself, it is equally so to steal the product of the animal, as milking a cow at pasture, or pulling the wool from the backs of sheep, notwithstanding the product is thus taken from the living animal.

But animals *feræ naturæ*, except they are reclaimed from their wild state, and are fit for the food of man, are not the subjects of larceny.

For information as to what things, by what persons, and from what places the crime of larceny may be committed, the reader is referred to the titles of the different subject matters.

1. Information for Larceny.

County of } The information and complaint of A. B. of the parish of — in the
 —. } county of — [esquire], taken this — day of — in the year of our
 Lord 1842, before me J. P., esquire, one of her Majesty's justices of the peace in and
 for the said county, who upon his oath saith, that on the — day of — now last
 past, at the parish of — in the said county, one gold watch of the goods and chattels
 of this informant was feloniously stolen, taken and carried away from the house of him
 the said A. B., at — aforesaid, and that he hath just cause to suspect, and does sus-
 pect and verily believes, that C. D., late of the parish aforesaid, in the county aforesaid,
 labourer, did then and there feloniously steal, take and carry away the same. And
 thereupon this informant prayeth me the said justice to issue my warrant to apprehend
 the said offender, in order that he may be dealt with according to law, and justice done
 in the premises.

Taken and sworn the day and year first }
 above written, before me, J. P. }

A. B.

2. Warrant to apprehend a Person for Larceny.

County of }
 —. } To the constable of — and all other officers in the said county.

Forasmuch as A. B., of — in the county of —, esquire, hath this day made in-
 formation and complaint upon oath before me, J. P., esquire, one of her Majesty's
 justices of the peace for the said county, that this present day one gold watch of the
 goods of him the said A. B. has been feloniously stolen, taken and carried away from
 the house of him the said A. B. at — aforesaid in the county aforesaid, and that he
 hath just cause to suspect, and doth suspect, that C. D., late of —, labourer, felo-
 niously did steal, take and carry away the same: These are therefore to command you
 forthwith to apprehend the said C. D., and to bring him before me to answer unto the
 said information and complaint, and to be further dealt with according to law. Herein
 fail you not. Given under my hand and seal the — day of — in the year of our
 Lord 1842.

3. *Commitment for Larceny.*

County of } J. P. esquire, one of her Majesty's justices of the peace for the said
 ——— } county, to the constable of ——— in the said county, and to the keeper
 of the common gaol at ——— in the said county.

These are to command you the said constable, in her Majesty's name, forthwith to convey and deliver into the custody of the said keeper of the said common gaol the body of C. D. charged this day before me, the said justice, on the oath of A. B., of ———, esquire, for that he the said C. D. on the ——— day of ——— instant, at the parish of ———, in the said county, one gold watch of the goods and chattels of the said A. B., feloniously did steal, take, and carry away. And you, the said keeper, are hereby required to receive the said C. D. into your custody in the said common gaol, and him there safely to keep, until he shall be thence delivered by due course of law. Herein fail you not. Given under my hand and seal the ——— day of ———, in the year of our Lord 1842. J. P.

—◆—
Ward—See *Fixtures*.

—◆—
Wraith.

BY 11 Geo. 4 & 1 Will. 4, c. 16, the duties on *leather*, and the laws relating to the manufacture of it, are repealed.

—◆—
Writers—For stealing them, see *Post Office*. And see *Threatening Writers*.

—◆—
Writ.

A JUSTICE of the peace has authority to issue his warrant for the arrest of a party charged on oath with having published a libel; and, upon the neglect of the party so arrested to find sureties to appear to answer an indictment, the justice may commit him to prison, there to remain till he be delivered by due course of law (*g*).

By 60 Geo. 3, c. 8, s. 1, a *sedition* libel is defined to be one, that tends to bring into hatred or contempt the person of his Majesty, his heirs or successors, or the regent, or the government and constitution of the united kingdom as by law established, or either house of parliament,—or to excite his Majesty's subjects to attempt the alteration of any matter in church or state as by law established, otherwise than by lawful means.

By 60 Geo. 3 and 1 Geo. 4, c. 9, s. 16, any justice, before whom any person is charged with printing or publishing any blasphemous,

seditions, or malicious libel, may make it a part of the condition of the recognizance, that he shall be of good behaviour during the continuance of the recognizance.

Lightermen—See Watermen.

Lighting and Watching.

TREASURER, or other Officer, not accounting for Monies, &c.] —By 3 & 4 Will. 4, c. 90, for making provision for lighting and watching parishes, it is enacted by *sect. 26*, that every treasurer, and other officer appointed under the act, shall deliver to the inspectors true and perfect accounts in writing of all matters and things committed to his charge, and also of all monies received for the purposes of the act, and of how much thereof shall have been expended and disbursed, and for what purposes, together with proper vouchers for such payments; and every such officer shall pay all such monies, as shall remain due from him, to such person as the inspector shall appoint. In case of any neglect, or refusal in these particulars, or if the treasurer, or other officer, shall refuse or wilfully neglect to deliver to the inspectors, within three days after being thereunto required by notice in writing under the hands and seals of any two or more of the inspectors, given to or left at the last or usual place of abode of such officer, all books, papers, and writings in his custody or power, relating to the execution of the act, or to give satisfaction respecting the same,—then upon complaint made to any justice, he may issue a summons for the officer so refusing or neglecting to appear before *two justices*; and upon the officer appearing, or having been so summoned and not appearing, without some sufficient and reasonable excuse, or not being found, the justices may hear and determine the matter in a summary way; and if, by the testimony of any credible witness, it should appear to such justices that any monies remain due from such officer, the justices may, upon non-payment thereof, by warrant under their hands and seals, cause such money to be levied by distress and sale of the goods of such officer. In default of distress, or if it shall appear to the justices that such officer had refused or wilfully neglected to render and give such account, or to produce the vouchers relating thereto, or that any books, papers, or writings relating to the execution of the act remained in his hands, or in his custody or power, and that he refused or wilfully neglected to give satisfaction respecting the same, then the justices may commit

the offender to the common gaol or house of correction, until he shall have given a true and perfect account, or until he shall have paid such monies, or compounded for the same with the inspectors and have paid such composition, and until he shall have delivered up such books, papers, and writings, or given satisfaction in respect thereof, to the inspectors. But no offender shall be detained, for want of sufficient distress, for any longer space than three calendar months.

Refusal of Inspectors to permit Inspection of Books.—By sect. 31, the inspectors are required to direct books to be provided and kept, in which shall be entered true and regular accounts of all sums received, paid, and expended, and of the several articles, matters, and things for which such sums shall have been disbursed and paid; and such books shall at all reasonable times be open to the inspection of the said inspectors, and of every inhabitant rated to the relief of the poor, without fee or reward, who may take copies or extracts therefrom. In case of refusal, the inspector is liable to a penalty not exceeding 5*l*.

Neglect of Overseers to pay Monies.—By sect. 38, in case the amount of any monies directed to be paid by the overseers to the treasurer, under any order issued in pursuance of this act, shall not be paid within the time specified for that purpose in the order, any justice upon complaint made to him by the treasurer, or any one of the inspectors, may issue a summons for the overseers to appear before two justices; and upon their appearing, or having been so summoned and not appearing, without some reasonable excuse, or not being found, the justices, in case the money is not paid, may issue their warrant for levying the amount, or so much thereof as may be in arrear, by distress and sale of the goods of the overseers; which, if not sufficient, the arrears may be added to the amount of the next levy, which shall be directed to be made in such parish for the purposes of the act, and shall be collected by the like method.

Watchmen, &c. not delivering up Clothing.—By sect. 40, all clothing, arms, ammunition, and weapons, provided for the use of any watchmen, patrol, and other persons, under the act, are declared to be the property of the inspectors for the time being; and in case of the resignation, removal, or death of any such watchmen, &c., must be returned to the inspectors; under a penalty not exceeding 20*l*., to be recovered for the use of the inspectors.

Duties of Watchmen and Patrols.—By sect. 41, the watchmen and patrols shall, during the time they shall be on duty, use their

utmost endeavours to prevent any mischief by fire, and also all robberies, burglaries, and other felonies and misdemeanors, and other outrages, disorders, and breaches of the peace, and to apprehend and secure all felons, rogues, vagabonds, and disorderly persons who shall disturb the public peace, or any persons wandering, secreting, or misbehaving themselves, or whom they shall have reasonable cause to suspect of any evil designs, and to secure and keep in safe custody every such person, in order that he or she may be conveyed as soon as conveniently may be before *one justice*. The watchmen, &c. may require any persons to aid and assist them in their duties; and in case any person shall assault or resist, or shall promote or encourage the assaulting or resisting any of such watchmen, &c. in the execution of their duty, he shall forfeit not exceeding 40s.; in default of payment of which the justice may commit him to the house of correction, with or without hard labour, not exceeding three calendar months; or, instead of committing the offender, the justice may cause the forfeiture and the costs (if any) to be levied by distress.

By *sect. 42*, all watchmen, serjeants of the watch, and patrols, shall be sworn in as constables before a justice, and are invested with the same powers and privileges. But no such person shall thereby gain a settlement in any parish.

Wilfully destroying Watchboxes, Lamps, &c.—By *sect. 55*, if any person shall wilfully break, throw down, spoil, or damage any watchhouse, watchbox, or lamp, lamp iron, lamp post, pole, rail, chain or other furniture thereof, or wilfully extinguish the light of any such lamp, any person who shall see the offence may apprehend, and any other person may assist in apprehending the offender, and, without any warrant, deliver him to a constable, who is to keep him in safe custody, and with all reasonable dispatch convey him before a justice; and, if convicted of such offence, he shall forfeit not exceeding 40s. for every lamp, lamp iron, or lamp post, so broken or injured, and shall also make full satisfaction for the damage; and not exceeding 5*l.* for any other such offence, with full satisfaction also for the damage; one moiety of such forfeiture to be paid to the person apprehending the offender, and the other to be applied for the purposes of the act, and to be levied and recovered in the same manner as any forfeiture before directed for assaulting a watchman in the execution of his duty.

Carelessly breaking Lamps, &c.—By *sect. 56*, if any person shall carelessly or accidentally break any of the lamps, lamp irons, or

lamp posts, or do any other such damage or injury as before is mentioned, and shall not, upon demand, make satisfaction to the inspectors for the damage so done, a justice, upon complaint made, may summon the party and award such sum by way of satisfaction to the inspectors as he shall think reasonable; the payment of which may be enforced as any forfeiture for assaulting a watchman in the execution of his duty.

For the penalties imposed for the neglect of gas companies, see *ante*, **Gas Companies**.

Sect. 62 gives the forms for any information and conviction.

Recovery and Application of Penalties.]—By *sect. 63*, all penalties, the mode of recovery whereof is not otherwise provided for, may be recovered in a summary way before two justices, and may be levied by distress; and, if not directed to be otherwise applied, shall be paid to the inspectors, or their treasurer, to be applied for the purposes of the act, except where the penalty is incurred by the inspectors, and then the same shall be paid to the informer; and the justices may order the offender so convicted to be detained in custody until return can be made to the warrant of distress, unless he shall give security for his appearance on the return of the warrant, being not more than seven days from the time of taking such security. If upon such return, it shall appear that no sufficient distress can be had, or in case it shall appear to the satisfaction of the justices, that the offender hath not sufficient goods, whereupon the penalty and costs could be levied if a warrant of distress were issued, the justices shall not issue a warrant of distress, but may commit the offender to the common gaol or house of correction, with or without hard labour, not exceeding six calendar months.

By *sect. 65*, inhabitants of any parish are competent witnesses.

By *sect. 66*, an appeal is given to the quarter sessions against the order of the inspectors, or the conviction of any justice. And by *sect. 67*, an appeal against any rate under the act is subject to the same rules, as appeals against poor rates.

By *sect. 70*, no proceedings are to be deemed unlawful, for want of form.

The following are the forms prescribed by *sect. 62*.

1. *Information.*

County of ——— } Be it remembered, that on the ——— day of ———, A. B., of ———, in-
 } formeth me, ———, one of her Majesty's justices of the peace for the said
 to wit. } county of ———, that ———, of ———, in the county of ——— [*here describe*
 } *the offence, with the time and place, and follow the act as near as may be,*] contrary to

the provisions of an act made in the third and fourth years of the reign of King William the Fourth, intituled [*insert the title of the act*], which hath imposed a forfeiture of — for the said offence. Taken the — day of — before —.

2. Conviction.

County of —, } Be it remembered, that on the — day of — in the — year of
 —, } the reign of — and in the year of our Lord —, A. B. is convicted
 to wit. } before —, one [*or "two,"*] of her Majesty's justices of the peace for
 the said county, for [*here specify the offence, and when and where committed*] contrary to
 the form of the statute made in the third and fourth years of the reign of King William
 the Fourth, intituled [*here set forth the title of the act*]; and I [*or "we,"*] do hereby
 declare and adjudge, that the said — hath forfeited for the said offence the sum of
 — [*or "shall be committed to — for the space of —," as the case may be*].
 Given under my hand and seal [*or "our hands and seals,"*] the day and year first
 above written.

Linen.

BY 17 Geo. 2, c. 30, s. 1, if any person shall cause any stamps to be affixed to any foreign linens imported, in imitation of the stamps put on Scotch or Irish linens, he shall forfeit 5*l.* for each piece; or if any person shall sell any foreign linens, knowing the same to be so stamped, as the manufacture of Scotland or Ireland, he shall forfeit the same, and also 5*l.* for each piece. And if any person shall affix any counterfeit stamp on any linen of the manufacture of Great Britain or Ireland, in order to vend the same as linen duly stamped, he shall forfeit 5*l.* for each piece; and if any person shall sell, expose to sale, or pack up for sale any such linens, knowing them to be so stamped, he shall forfeit the same, and also 5*l.* for each piece.

By *sect. 2*, one justice may convict the offender, on the oath of one witness, and grant a warrant of distress; in default of which commitment for six months; the whole of the penalty to go to the informer, deducting 2*s.* in the pound for the constable who executes the warrant.

For stealing or maliciously destroying linen goods in the process of manufacture, see *Manufactories*.

Loan Societies.

LIMITATION *as to amount.*—By 3 & 4 Vict. c. 110, to amend the laws relating to loan societies for the benefit of the labouring classes, it is declared by *sect. 13*, that it shall not be lawful for any such society to lend to any person at the same time a greater sum

than 15*l.*, and that no second or other loan shall be made to the same person, until the former loan shall have been repaid.

Recovery of Loans.—By *sect. 16*, all notes signed for the repayment of such loans must be made payable to the treasurer of the society, and may be in the form given in the schedule to the act, or to the like effect, in which note may be embodied the statement of any allegations made by the parties to such note respecting their goods or property; and all such allegations made under the hand of any such party may be given in evidence against him on any proceeding under the act. If the party shall fail to make full payment in money of the sum in the note mentioned, after demand in writing made on him, or left or sent by the post, directed to him at his usual place of abode, or at his place of residence as described in the note, by or on behalf of the treasurer of the society, any justice of the peace for the county or place where the party may happen to be or reside, upon complaint made by or on behalf of such treasurer, shall summon the party; and after his appearance, or, in default thereof, upon due proof upon oath of such summons having been given, left or sent as aforesaid, shall thereupon proceed to hear and determine the complaint, and award such sum to be paid by him to the treasurer, as shall appear to the justice to be due, without any rebate or interest, together with costs not exceeding five shillings. The society, however, may direct that any or all of the sureties for payment of the loan shall be sued, in preference to the actual borrower. If any person shall refuse or neglect to pay the sum which shall be so adjudged to be due upon such note, and costs as aforesaid, upon the same being demanded in manner aforesaid, such justice shall, by warrant under his hand and seal, cause the same to be levied by distress and sale of the goods of the party, together with all costs and charges attending such distress and sale, returning the overplus (if any) to the owner. No proceedings are to be removed by *certiorari*, or otherwise. The landlord must be paid the amount of the rent due to him at the time of making the distress out of the proceeds of the sale.

Witnesses.—By *sect. 25*, any trustee, treasurer, manager, shareholder, officer, clerk, or servant of the society is declared to be a competent witness, notwithstanding any interest he may have in the result of the proceeding.

Forms of Proceeding.—By *sect. 26*, the several forms set forth in the schedule to the act may be used, with such additions and variations as may be necessary to adapt them to the particular circum-

stances of each case, and no objection can be taken for want of form in any such proceedings.

By *sect. 30*, the act was to continue in force until the 31st December, 1841; and by 4 & 5 Vict. c. 55, it is further continued to the 1st April, 1842, and to the end of the then session of parliament.

The following are the forms given in the schedule.

1. *Summons of a Party to appear before a Magistrate.*

Kent, } Whereas complaint has this day been made before me, one of her Majesty's justices of the peace in and for the county of Kent [or "one of the magistrates of the police courts of the metropolis, sitting at the police court at —, within the metropolitan district," *as the case may be*] by —, on behalf of the [name of the society] Society, enrolled pursuant to the act intituled [*here insert the title of the act,*] that you have failed to make payment of a certain instalment [or "certain instalments"] amounting to £—, being part of a loan of £— secured by a certain note entered into by you and —, to the treasurer for the time being of the said society, dated the — day of —, one thousand eight hundred and —: These are therefore, in her Majesty's name, to require you personally to appear at —, on the — day of —, before me [or "such other justice acting for the county of —," or "such other magistrate of the police courts aforesaid as shall be then and there sitting," or *as the case may be*] at — of the clock, then and there to answer the said complaint. Given under my hand and seal this — day of —, in the year of our Lord one thousand eight hundred and —.

2. *Warrant of Distress to levy the Amount found due.*

Kent, } To all constables and others, her Majesty's officers of the peace for the } county of Kent, and all others whom it may concern.

Whereas on the — day of —, in the year of our Lord one thousand eight hundred and —, A. B., late of the parish of — in the county of Kent, was and is duly convicted before me, one of her Majesty's justices of the peace acting in and for the said county [or "one of the police magistrates of the metropolis, sitting at the police court in —, within the metropolitan district," or *as the case may be*] upon the oath of — treasurer [or *as the case may be*] to a certain loan society called —, held at — in the county of —, enrolled under and by virtue of a certain act of parliament intituled [*here insert the title of the act,*] for that on the — day of —, in the year of our Lord one thousand eight hundred and —, at the parish of — in the county of —, the said A. B., being the party liable to pay the money hereinafter mentioned, did fail to make full payment in money to —, the treasurer of the said society, of the sum of — pounds — shillings and — pence, being part of the sum of — pounds lent and advanced to the said A. B., and secured by note bearing date the — day of —, one thousand eight hundred and —, entered into by the said A. B. to the treasurer of the said society, demand having been duly made on the said A. B. for the said sum of — pounds — shillings and — pence, previous to the said — day of —, on behalf of the said treasurer of the said society, contrary to the said statute; and the said A. B. having been duly summoned before me, the said justice [or "magistrate at the police court aforesaid,"] on the said — day of —, to answer the said complaint, and having [or "not," *as the case may be*] appeared before

me, in pursuance of such summons, on the said — day of —, at —, [*or* “at the police court aforesaid”], I, the said justice [*or* “magistrate”] did proceed to hear and determine the said complaint, and did adjudge and award the said A. B. to pay the sum of — pounds — shillings and — pence to the said treasurer, and which appeared to me to be due on the said note, and also the sum of — shillings and — pence for the costs of the said summons, complaint and hearing thereof, and making together the sum of £ —; and whereas it appears to me, the said justice [*or* “magistrate”] that the said sum of — pounds — shillings and — pence hath been duly demanded of the said A. B., and that he hath neglected to pay and satisfy the same: These are therefore to command you to levy the said sum of — pounds — shillings and — pence, by the distress and sale of the goods and chattels of the said A. B. And I do hereby order and direct the goods and chattels so to be distrained to be sold and disposed of within four days next after making such distress, unless the said last mentioned sum of money for which such distress shall be made, and all costs and charges attending such distress, shall be sooner paid, rendering the overplus, on demand, to the said A. B. And you are commanded to certify to me, the said justice, [*or* “magistrate”] what you shall do by virtue of this warrant. Given under my hand and seal at —, this — day of —, in the year of our Lord one thousand eight hundred and —.

—◆—
Lord's Day—See Sunday.

—◆—
Lotteries—See Gaming.

—◆—
Lunatics.

1. *Pauper and Criminal Lunatics* 534
2. *Care and Treatment of Insane Persons generally* 543

1. *Pauper and Criminal Lunatics.*

APPREHENSION and disposal of dangerous Lunatics.]—By 1 & 2 Vict. c. 14, s. 2, where any person is discovered and apprehended under circumstances that denote a derangement of mind, and a purpose of committing some crime, for which, if committed, such person would be liable to be indicted, two justices of the place where he shall be apprehended may call to their assistance a physician, surgeon, or apothecary; and if, upon view and examination of such person, or from other proof, the justices shall be satisfied that he is insane, or a dangerous idiot, they may, by an order under their hands and seals directed to the constable or overseers of the parish or place where such person shall be apprehended, cause such person to be conveyed to and placed in the county lunatic asylum, if there be one, and if not, then to some public hospital, or some house duly licensed for the reception of insane persons. The justices may also

inquire into and ascertain, by the best legal evidence that can be procured under the circumstances of partial legal disability of such person, the place of his last legal settlement, and may make an order upon the overseers or churchwardens of the parish or place where they may adjudge him to be legally settled, to pay all reasonable charges of examining such person and conveying him to such asylum, or other place, and to pay such weekly sum for his maintenance there as they, or any two justices, shall from time to time direct. Where the settlement cannot be ascertained, the order may be made upon the treasurer of the county in which such person shall be apprehended. But any relation or friend may take such person under his own care and protection, if he shall enter into a sufficient recognizance for his peaceable behaviour or safe custody before two justices, or the quarter sessions, or one judge. An appeal is given from the order of the justices, as to the settlement of such person, in like manner and under like restrictions as against any order of removal.

By *sect. 4* the act is not to alter the laws relating to the discharge of recovered lunatics, nor authorize the removal of any poor person from any asylum, without an order made by two justices for the county, unless such person shall have been discharged as cured.

County Asylums.—By 9 Geo. 4, c. 40, s. 2 *et seq.*, the justices at quarter sessions may order the erection of county lunatic asylums, and may appoint visiting justices to superintend the erection and management of them; who are empowered (by *sect. 30*) to make regulations and appoint officers for the management of the asylums, and to fix a weekly rate to be paid for each person confined in the asylum, not exceeding 14s. per week; which, if found insufficient, may (by *sect. 31*) be increased by the justices at the quarter sessions.

Overseers to return Lists, &c. of Insane Persons to Justices.—By *sect. 36*, the justices at their several petty sessions, which shall be held next after the 15th August in every year, are required to issue their warrants to the overseers within their respective subdivisions, in the form in the schedule annexed, to return lists of all insane persons chargeable to their respective parishes, specifying the name, sex, and age of each insane person, and whether he be dangerous, or otherwise, and for what length of time they have been disordered in their senses, and where confined, or how otherwise disposed of. The overseers are to prepare such lists, according to the form in the schedule, which must be verified on oath before one justice, accompanied with a certificate from a physician, surgeon, or apothecary, and

within fifteen days be transmitted by the overseer to the clerk of the peace. Any overseer making default is liable to a fine not exceeding 10*l.*, leviable by warrant of distress, under the hands and seals of two justices.

By *sect. 37*, if any overseer of a place, to which any insane person shall be chargeable, shall for the space of seven days wilfully neglect to give information of the state of such person to some justice acting within the division, he is liable to a penalty not exceeding 10*l.*, nor less than 40*s.*, half to the informer, and half to the treasurer of the county, recoverable by distress by warrant of two justices.

Removal of Insane Persons to Asylums.—By *sect. 38*, upon its being made known to any justice that any poor person chargeable to any place is deemed to be insane, either by notice from the overseer, or otherwise, the justice may, by an order under his hand and seal, require the overseer to bring such person before two justices, who are required to call to their assistance a physician, surgeon, or apothecary, at the charge of the parish. And if, upon view or examination of such person, or from other proof, the justices shall be satisfied that he is insane, they shall make inquiry into the place of his last legal settlement, and they may, by an order under their hands and seals directed to the overseers, according to the form in the schedule, cause such person to be conveyed to and placed in the county lunatic asylum, or if there shall be no such asylum, then to some public hospital duly licensed for the reception of insane persons. Any two justices may make an order on the overseer of the parish, wherein the last legal settlement shall be adjudged to be, for the payment of the expenses of the conveyance of such person to such asylum or hospital, and for his maintenance there. The overseer shall not remove a lunatic from any licensed house, without an order of two justices, unless he shall have been discharged as cured. The overseer conveying the lunatic to any asylum is required to deliver a certificate from the medical man called to the assistance of the justices, according to the form in the schedule, to the superintendent or keeper of the asylum.

By *sect. 45*, if any justice shall refuse to make an order for the conveyance of any such insane person to an asylum, on the application of any overseer, he shall deliver to him his reasons in writing for such refusal.

By *sect. 39*, the visitors of any county asylum may deliver any pauper to his relatives or friends, upon their undertaking that he shall be no longer chargeable to the parish.

By *sect. 40*, medical practitioners appointed by parishes may visit eight times in the year pauper patients confined in any public hospital, county lunatic asylum, or house licensed for the reception of insane persons.

Where the Lunatic's Settlement is unknown.—By *sect. 41*, where the place of legal settlement of an insane person cannot be ascertained, the justices may, by their warrant, direct such person to be confined in the asylum for the county where such person shall have been found, or if there is no such asylum, then to some public hospital or licensed house, and may direct that the charges for the removal and maintenance of such person shall be paid by the treasurer of the county out of the county rates, by order of two justices to him directed for that purpose.

And by *sect. 42*, where the legal settlement of any insane person so confined under an order of two justices has not been previously ascertained, two justices may still inquire into such settlement; and if satisfactory evidence of it can be obtained, may make an order upon the overseers for the repayment of the expenses of removal and maintenance of such person incurred within twelve calendar months; and may provide for the future expenses necessary for the maintenance of such person in the manner before directed when such person was originally examined.

When Order may be made upon Overseers of another County.—By *sect. 43*, where two justices are empowered to make an order on overseers for the payment of any charges, two justices of the county in which the asylum is situate may make such order on the overseers of any other county, which shall jointly maintain the asylum.

Where Lunatics are wandering about, and at large.—By *sect. 44*, upon its being made known to any justice, that any person wandering about and at large within his jurisdiction is deemed to be insane, the justice may, by an order under his hand and seal, require the constable, or churchwardens and overseers of the place where such person is found, to bring him before two justices, who are required to call to their assistance a physician, surgeon, or apothecary, at the charge of the parish. And if the justices shall be satisfied that such person is so far disordered in his senses, that it is dangerous for him to be permitted to go abroad, they shall inquire into the place of his last legal settlement, and may proceed in the same manner as before directed in the case of a person chargeable to any parish. If it shall appear to the justices, that such person hath an estate more than suf-

ficient to maintain his family, they shall by order under their hands and seals direct the overseer of any parish, where the property shall be, to seize and sell so much of the goods, or receive so much of the annual rents, as is necessary to pay the charges of removal and maintenance of such insane person, accounting for the same at the next quarter sessions; such charges being first proved to the satisfaction of the justices, and the amount thereof being set forth in the order. But this is not to restrain any relation or friend from taking such insane person under their own care.

Appeal.—By *sect. 46*, if any person shall feel aggrieved by any order, or any refusal of an order of any justice, as before mentioned, he may appeal to the next quarter sessions, on giving to the justices ten days' notice.

Justices to make Returns to Quarter Session.—By *sect. 47*, every justice who shall have issued an order for the conveyance of an insane person to an asylum, or who shall have refused such order, on the application of the overseers, shall make a regular return to the next quarter sessions of all such cases brought before him, stating in all cases of refusal the reasons thereof.

Enforcement of Orders on Overseers.—By *sect. 48*, if the overseers, upon whom any order for payment of money shall be made, shall for twenty days after notice of such order, neglect to pay the sum ordered, the amount, together with the expenses, may be recovered by distress, under the warrant of two justices.

Settlement of Bastard Children.—By *sect. 49*, no bastard child born of any insane person in a county lunatic asylum shall thereby gain a settlement, but the child's settlement shall follow the mother's.

Where County Asylums not liable.—By *sect. 50*, no county lunatic asylum is liable to the reception of insane persons, who may be chargeable or apprehended in any place, which does not contribute to the expense of the asylum.

Officers permitting Lunatics to escape.—By *sect. 52*, if any officer, servant, or assistant in any county lunatic asylum shall, through neglect or connivance, permit any insane person to escape and be at large, without the order in writing of three of the visitors, or until two visitors, with the advice and consent of the physician, surgeon or apothecary attending such asylum, shall discharge any lunatic whose perfect recovery is certified by the physician, &c., he is liable

to a penalty not exceeding 40*l.*, nor less than 40*s.*, recoverable by distress.

Expenses of the Removal of Lunatics, on their Discharge.—By *sect. 53*, on the regular discharge of any pauper from an asylum, the necessary expenses of his removal shall be borne by the parish in which he is legally settled, and, upon being allowed by two justices of the county in which the asylum is situated, shall be paid by the overseers out of the poor rate.

Where an Insane person is kept in Custody by an Order of any Court.—By *sect. 54*, where any person shall be kept in custody as an insane person by order of any court, two justices may inquire into the place of his last legal settlement, and his circumstances; and if he is not possessed of sufficient property which can be applied to his maintenance, they may make an order upon the parish where they shall adjudge him to be legally settled to pay such weekly sum for his maintenance, as (by 3 & 4 Vict..c. 54, s. 7) two justices shall by writing direct. And where his place of settlement cannot be ascertained, such order shall be made upon the treasurer of the county where he shall have been apprehended. But if it shall appear that the party is possessed of sufficient property, then the justices shall order it to be applied to satisfy the expense of his maintenance in the manner before directed. But the parish on which any order is made may appeal to the sessions, as in the case of any order of removal, giving reasonable notice to the clerk of the peace, who is to be respondent in such appeal.

Recovery and Application of Penalties.—By *sect. 59*, all complaints for offences against the act may be made before one justice, who may summon the party complained of, or upon complaint upon oath may issue a warrant for his apprehension, and, whether he appears or not upon the summons, may hear and determine the matter upon the examination of one or more witnesses, and upon conviction of the offender may issue a warrant of distress, and until the return of the warrant, not being more than seven days, may order him to be kept in custody, unless he gives security for his appearance. In default of distress, or in case it appears to the justice (without issuing a warrant of distress) that the offender has not sufficient goods to satisfy the penalty and costs, then he may be committed to the common gaol or house of correction not exceeding three calendar months. The whole penalty, where the application is not otherwise directed,

is to be paid to the overseers of the parish, where the offence is committed.

Appeal.—By *sect. 60*, an appeal is given to the quarter sessions, within four calendar months after the making of any order, upon giving fourteen days' notice to the party appealed against, and entering into the usual recognizance.

Where Prisoners become insane.—By *3 & 4 Vict. c. 54, s. 1*, if any person while imprisoned in any prison, or other place of confinement, under any sentence of death, transportation or imprisonment, or under a charge of any offence, or for not finding bail for good behaviour or to keep the peace or to answer a criminal charge, or in consequence of any summary conviction or order by any justice or justices of the peace, or under any other than civil process, shall appear to be insane, any two justices of the peace of the county or place where such person is imprisoned may inquire, with the aid of two physicians or surgeons, as to the insanity of such person; and if it shall be duly certified by such justices and such physicians or surgeons that such person is insane, the Secretary of State, upon receipt of such certificate, may direct by warrant under his hand that such person shall be removed to such county lunatic asylum, or other proper receptacle for insane persons, as he may judge proper; and every person so removed shall remain under confinement in such county asylum, until it shall be duly certified to the Secretary of State by two physicians or surgeons, that such person has become of sound mind: whereupon, if such person shall still remain subject to be continued in custody, the Secretary of State may issue his warrant to the keeper of such asylum, directing that such person shall be removed back from thence to the prison from whence he shall have been taken, or if the period of imprisonment or custody of such person shall have expired, that he shall be discharged.

Inquiry as to the Settlement of the Prisoner.—By *sect. 2*, in all such cases, unless the Secretary of State shall otherwise direct, two justices of the county or place where such person is imprisoned may inquire into and ascertain by the best evidence or information that can be obtained, under the circumstances of the personal legal disability of such insane person, the place of his last legal settlement, and his pecuniary circumstances; and if it shall not appear that he is possessed of sufficient property which can be applied to his maintenance, the justices may by order under their hands direct the overseers of the parish where they shall adjudge him to be lawfully

settled,—or in case such parish be comprised in a union declared by the poor law commissioners, or shall be under the management of a board of guardians established by the poor law commissioners, then the guardians of such union or of such parish (as the case may be)—to pay on behalf of such parish, in the case of any person removed under the act, all reasonable charges for inquiring into such person's insanity, and for conveying him to such county lunatic asylum or other receptacle for insane persons, and to pay such weekly sum as they, or any two justices, shall by writing under their hands from time to time direct for his maintenance; and when the place of settlement can not be ascertained, such order shall be made upon the treasurer of the county or place where such person shall have been imprisoned. But if it shall appear to the justices, upon inquiry, that any such person is possessed of property, such property shall be applied towards the expenses incurred on his behalf; and they shall from time to time, by order under their hands, direct the overseers of any parish where any property of such person shall be to receive or seize so much thereof as may be necessary to pay the charges, if any, of inquiring into such person's insanity, and of removal, and also the charges of maintenance, clothing medicine and care of any such insane person, accounting for the same at the next special petty sessions of the division, city, or borough, in which such order shall have been made; such charges having been first proved to the satisfaction of such justices, and the amount thereof being set forth in such order.

Persons indicted for Misdemeanor.—By *sect. 3*, where persons charged with *misdemeanors* are acquitted on the ground of insanity, they may be kept in custody, under the same provisions as are contained in 39 & 40 Geo. 3, c. 94, for the safe custody of insane persons charged with offences; and any two justices of the peace of the county or place where such person shall have been acquitted on account of insanity, or shall be kept in custody, shall have the like power as is given in the cases before mentioned to inquire into and ascertain the last legal settlement of such insane person, and also to make the like order for the payment of his maintenance, and of other charges above mentioned.

Appeal, &c.—By *sect. 4*, persons aggrieved may *appeal* from the order of the justices, upon giving to them ten days' notice; and no *certiorari* is allowed. And by *sect. 5*, overseers or guardians may appeal against the order of the justices on the parish, in like manner as against any order of removal.

1. *Form of Warrant, prescribed by 9 Geo. 4, c. 40, s. 36, to Overseers to return List of Lunatics (h).*

Kent, }
to wit. } To the overseers of the poor of the parish of —, in the county of —.

We, — and —, two of her Majesty's justices of the peace in and for the county of Kent, hereby require you, in pursuance of an act of parliament passed in the ninth year of the reign of his late Majesty King George the Fourth, intituled "An Act" [here insert the title of the act], to make out a true list of all insane persons, being paupers, within the parish aforesaid, specifying the name, sex, and age of each insane person, and whether such insane person be dangerous or otherwise, and for what length of time such lunatics shall have been disordered in their senses, and where confined, or how otherwise disposed of; and you shall, on the receipt of this warrant, prepare such list according to the form hereunto annexed, and verify the same on oath before any one justice of the peace, and return the same, accompanied with a certificate from a physician, surgeon, or licensed apothecary, as to the state and condition of each insane person, to the clerk of the peace, or his deputy; and on neglect to prepare such list, or to return the same within fifteen days to the clerk of the peace or his deputy, with such certificate as aforesaid, or to verify such list on oath, you will for every such offence be liable to a fine not exceeding 10*l.*: And you are hereby required to take notice, that it shall be lawful for you to defray the necessary expenses of examination of such insane persons by a physician, surgeon, or apothecary, out of the poor rates of the parish. Given under our hands and seals, this — day of —, in the year of our Lord —.

A. B. (L. S.)

C. D. (T. S.)

Form of Return.

A true list of all lunatics, and dangerous idiots, within the parish or precinct of —, in the county of —, specifying the name, sex, and age of each lunatic and idiot, and whether such lunatics be dangerous or otherwise, and for what length of time such lunatics have been disordered in their senses, and where confined or how otherwise disposed of.

Name.	Age.	Sex.	Whether Lunatic or Idiot.	Whether dangerous or otherwise.	For what length of time disordered in his or her senses.	Where confined and since what time.	At what expense.

Sworn by —, overseers of the poor of the said parish of —, before me, one of her Majesty's justices of the peace acting in and for the county of —, at —, this — day of —, in the year of our Lord —.

A. B.

2. *Form of Warrant, under 9 Geo. 4, c. 40, s. 38, to remove a Pauper Lunatic to the County Asylum (i).*

Kent, } Whereas it appears to us, J. P. and K. P., esquires, two of her Majesty's
to wit. } justices of the peace for the county of Kent, having called to our assistance
W. D., a physician [or "surgeon," or "apothecary," as the case may be], that A. B.,
chargeable to the parish of —, in the said county, is lunatic ["insane," or "a dan-
gerous idiot," as the case may be], you are hereby directed to cause the said A. B. to
be conveyed to the county lunatic asylum, established at — [or "to the house of
—, situate at — in the county of —, the said house being a house duly licensed
for the reception of insane persons"]. Given under our hands and seals, this —
day of —.

To the overseers of the poor of the parish of —.

3. *Form of Certificate of the Physician, &c.*

I do hereby certify, that by the directions of J. P. and K. P., esquires, justices of
the peace for the county of Kent, I have personally examined A. B., and that the said
A. B. appears to be of insane mind. Dated this — day of —, 1842. W. D.

2. *Care and Treatment of Insane Persons, generally.*

Licences to Houses for Reception of Lunatics.]—By 2 & 3 Will.
4, c. 107, ss. 8 and 9, five of the metropolitan commissioners in
lunacy, two of whom shall not be physicians, are directed to meet at
such place as the Lord Chancellor may direct, on the first Wednes-
day in the months of November, February, May, and July, for
granting licences to houses for the reception of two or more insane
persons within their jurisdiction. And by *sects.* 10 and 19, in all
other parts of England, three of the justices at quarter sessions have
the like authority within their respective counties, except within the
jurisdiction of the metropolitan commissioners. By *sect.* 18, the
licence is required to be according to the form in the schedule to the
act marked (A).

Appointment of Visitors.]—By *sect.* 11, the justices at sessions are
to appoint visitors of each house licensed for the reception of insane
persons within the county, which appointment must, within twenty-
one clear days, be communicated by the clerk of the peace to the
clerk of the metropolitan commissioners in lunacy, under the penalty
of 5*l.*

Giving false Plans of Houses.]—By *sect.* 17, if any person shall,
wilfully and with intention to deceive, not give a full and complete
plan of the whole of the house, in respect of which a licence is ap-

plied for, or not give notice to the clerk of the commissioners, or the clerk of the peace, of any additions and alterations as shall have been made, he is guilty of a *Misdemeanor*.

Penalty for keeping Houses unlicensed.—By sect. 22, every person keeping a house for the reception of two or more insane persons, not duly licensed, shall be deemed guilty of a *Misdemeanor*.

Receiving persons into Houses, without an Order and Medical Certificate.—By sect. 27, no person, not being a parish pauper, shall be received into any house without an order (according to the form in the schedule (B)) under the hand of the person by whose direction the insane person is sent, stating his Christian and surname, and place of abode, and his degree of relationship, or other circumstance of connection between him and the lunatic, and the true name, age, place of residence, former occupation, and asylum, or other place (if any), in which the lunatic shall have been previously confined, and whether he shall have been found lunatic under a commission issued for that purpose by the Lord Chancellor; nor shall any lunatic be received into any such house, without a medical certificate of two physicians, surgeons, or apothecaries. If any person shall knowingly and wilfully receive any insane person, or one represented to be so, in any house, without such order and medical certificate, and without making (within three clear days after his reception) an entry in a book to be kept for that purpose, according to the form in the schedule (M), of the true name of the patient, and also the Christian and surname, occupation, and place of abode of the person by whom such patient shall be brought, he shall be deemed guilty of a *Misdemeanor*.

Giving false Certificates, &c.—By sect. 28, any medical certificate, upon which any order shall be given for the confinement of any person (not a parish pauper) in a house licensed under the act, must be according to the form in schedule (C), and signed by two medical practitioners, not being in partnership, and each being a physician, surgeon, or apothecary, who shall have separately visited and personally examined the patient, not more than seven clear days previously. The certificate must be signed and dated on the day on which he shall have been so examined, and must state whether he is insane and proper to be confined. If the certificate be not signed by two medical practitioners, it must state the special circumstances which have prevented the patient being visited by two medical practitioners; in which case he may be admitted into such house upon the

certificate of one medical practitioner, provided the certificate shall be further signed by some other medical practitioner within seven days next after the admission of the patient. And any person who shall knowingly, and with intention to deceive, sign any medical certificate, untruly setting forth any of the particulars required by the act, is also guilty of a *misdemeanor*. And no physician, surgeon, or apothecary, shall sign any certificate, if he himself, or his father, son, brother, or partner, is wholly or partly the proprietor, or the regular professional attendant of the licensed house; on pain likewise of being deemed guilty of a *misdemeanor*.

Restriction on the Reception of Paupers into licensed Houses.—By *sect. 29*, no parish pauper shall be received into any house licensed for the reception of insane persons, without an order (according to the form in the schedule (D)) under the hand and seal of one justice, or an order (according to the form in schedule (E)) signed by the officiating clergyman and one of the overseers of the parish to which the pauper shall belong, and also a medical certificate (according to the form in schedule (F)) signed by one physician, surgeon, or apothecary, that such pauper is insane, and a proper person to be confined. If any one shall knowingly and wilfully receive any pauper, without such order and medical certificate, he is guilty of a *Misdemeanor*.

Duty of Proprietors, on Reception of Patients.—By *sect. 30*, the proprietor or resident superintendent of every house licensed under the act must, within two days after any patient shall have been admitted, transmit a copy of the order and medical certificate, with a notice (according to the form in schedule (G)) to the clerk of the commissioners, and also a duplicate copy thereof to the clerk of the peace; on pain of being deemed guilty of a *Misdemeanor*.

By 3 & 4 Will. 4, c. 64, s. 2, the clerk of the commissioners and clerk of the peace are required to preserve such copies and duplicates, and within five days to enter in a register the Christian and surname of each insane person so returned to him, and of the persons by whose order, and upon whose medical certificates, such insane persons shall be confined; under the penalty of 5*l.* for any default, on conviction before one justice.

On Removal or Death of Patients.—By 2 & 3 Will. 4, c. 107, s. 32, in case of the death of any parish pauper patient in any licensed house, a statement of the cause of death shall be drawn up and signed by the medical attendant of such house, and a copy thereof, duly cer-

tified by the proprietor or resident superintendent, shall be by him transmitted to the clerk of the commissioners, or clerk of the visitors, within two days of the death of such patient, under the penalty of 10*l.* for any wilful default, on conviction before *one justice*. And by 3 & 4 Will. 4, c. 64, s. 3, when *any* patient is *removed*, or *discharged*, or *dies*, the proprietor must transmit a written notice thereof to the clerk of the commissioners and the clerk of the peace; under the penalty (by *sect. 7*) for any default, of being guilty of a *Misdemeanor*.

Medical Attendance.—By 2 & 3 Will. 4, c. 107, *sect. 33*, licensed houses containing one hundred patients must have a resident medical man; and those containing less, if not kept by a medical man, must be visited by one twice in every week, who must, in either case, once in every week make and sign a statement of the health of all the patients and the condition of the house, according to the form in schedule (I), which statement must be entered in a book to be kept at such house, and be regularly laid before the visitors for their inspection and signature.

But, by *sect. 34*, when the house is licensed to receive less than eleven insane persons, then a majority of the commissioners at any meeting, or three of the visitors, may permit the house to be visited by a medical man once at the least in every four weeks; which permission must be in writing under the hands and seals of five of the commissioners, or three of the visitors, according to the form in schedule (K). The medical man must enter in a book to be kept for that purpose, the date of his visit, the condition of the house, and the state of the patients.

Fraudulent Concealment by Proprietors.—By *sect. 40*, if the proprietor or resident superintendent shall fraudulently conceal, or attempt to conceal, any part of the house or premises, or any person detained therein as insane, from any commissioners or visitors, or from any medical or other person authorized under the provisions of the act to visit and inspect any such house and the patients confined therein, he is guilty of a *Misdemeanor*.

Admission into unlicensed Houses.—By *sect. 46*, no person (except he be a guardian or relative who does not derive any profit from the charge, or a committee appointed by the Lord Chancellor) shall, under pain of being deemed guilty of a misdemeanor, receive to board or lodge in any house not licensed under the act, or take the care or charge of, any insane person, without first having the like order and

medical certificates, as are required on the admission of an insane person (not being a parish pauper patient) into a licensed house.

By *sect. 47*, every person (except as aforesaid) who shall so receive in any house not licensed, or take the charge of, any insane person, must within twelve calendar months next after, if such insane person shall not previously have returned to his own or usual place of abode, transmit to the clerk of the metropolitan commissioners a copy of such order and medical certificates, and shall also (if such insane person shall not have been removed) on the 1st January in every succeeding year, or within seven days after, transmit to such clerk a certificate signed by two physicians, surgeons, or apothecaries, describing the then actual state of mind of such insane person; under the penalty of being guilty of a *Misdemeanor*.

Commissioners may summon Witnesses.—By *sect. 52*, the commissioners and visitors may summon witnesses before them; in default of whose attendance, or in case of their refusal to give evidence, they are liable to a penalty not exceeding 50*l.*, nor less than 10*l.*, on conviction before one justice.

Proceedings.—By *sect. 54*, a general form of conviction is given.

By *sect. 56*, the provisions for the *recovery and application of penalties*, and the commitment of the offender, under this act, are precisely the same as under the previous act of 9 Geo. 4, c. 40, s. 59 (*h*).

By *sect. 57*, an appeal is given, within four calendar months after any order, to the quarter sessions; and by *sect. 58*, there is the usual limitation and restriction as to actions against persons for any thing done under the act.

By *sect. 59*, prosecutions can only be brought by order of the commissioners, or the justices at quarter sessions; and by *sect. 60*, the clerk of the commissioners, or clerk of the peace, may sue for all penalties.

By 1 & 2 Vict. c. 73, the provisions of the two above mentioned acts of the 2 & 3 Will. 4, c. 107, and 3 & 4 Will. 4, c. 64, were continued for three years; and by 5 Vict. c. 4, the same were continued for three years longer, and from thence to the end of the then next session of parliament.

Schedules referred to by the 2 & 3 Will. 4, c. 107.

(A). *Form of Licence (l)*.

Know all men, that we the undersigned, being five of the metropolitan commissioners in lunacy, [or "we the undersigned, justices of the peace acting in and for

(h) See *ante*, p. 539.

(l) See *ante*, p. 543.

—, in quarter sessions assembled,”] do hereby certify, that A. B. of the parish of —, in the county of —, hath delivered a notice to, and deposited with, our clerk [or “clerk of the peace”] a plan and description of a house and premises proposed to be licensed for the reception of insane persons; and we, having considered and approved the same, do hereby authorize and empower the said A. B. [or “C. D., as superintendent, the said A. B. not intending to reside therein himself,”] to use and employ the house and buildings situate at —, in the parish of —, in the county of —, as a house for the reception of — insane persons, [“male and female,” or “male,” or “female only,”] whereof — to be parish pauper patients; and this licence to continue in force for the space of — calendar months, and no longer.

Given under our hands and seals this — day of —, in the year of our Lord —.

Witness, A. B.

(L. S.)

Clerk to the Metropolitan Commissioners,

(L. S.)

or

(L. S.)

Clerk of the Peace.

(L. S.)

(L. S.)

Note.—Fourteen days' previous notice of the intention to renew this licence must be given to the clerk of the metropolitan commissioners, or clerk of the peace.

(B). *Statement and Order to be annexed to the Medical Certificates, authorizing the Reception of an Insane Person (m).*

The patient's true Christian and surname at }
full length }

The patient's age

Married, or single

The patient's previous occupation (if any) ..

The patient's previous place of abode

The licensed house, or other place (if any) in }
which the patient was before confined . . . }

Whether found lunatic by inquisition, and }
date of commission }

Special circumstance which shall prevent the }
patient being separately examined by two }
medical practitioners }

Special circumstance which exists to prevent }
the insertion of any of the above particulars }

Sir,—Upon the authority of the above statement, and the annexed medical certificates, I request you will receive the said — as a patient into your house.

I am, Sir, Your obedient servant,

Name

Occupation (if any)

Place of abode

Degree of relationship (if any) to the in- }
sane person }

To Mr. —.

Proprietor of —.

(C). *Form of Medical Certificate (u).*

I, the undersigned, hereby certify, that I separately visited and personally examined —, the person named in the annexed statement and order, on the — day of —, 18—, and that the said — is of unsound mind, and a proper person to be confined.

(Signed) Name
 Physician, Surgeon, or Apothecary
 Place of abode

I, the undersigned, hereby certify, that I separately visited and personally examined —, the person named in the annexed statement and order, on the — day of —, 18—, and that the said — is of unsound mind and a proper person to be confined.

(Signed) Name
 Physician, Surgeon, or Apothecary
 Place of abode

(D). *Form of Order by Justice of Peace, in Cases of Pauper Lunatics (o).*

—, } Whereas it appears to me, J. P., esquire, one of her Majesty's justices
 to wit. } of the peace in and for the —, having called to my assistance Mr.
 —, that —, chargeable to the parish of — in the said county, is of unsound
 mind, you are hereby directed to cause the said — to be conveyed to the lunatic
 asylum in the county of —, [or "the house of — at — duly licensed for the
 reception of insane persons."]

Given under my hand and seal this — day of —, 18—.

(L. S.)

To the overseers of the poor of the parish of }
 — in the county of —. }

(E). *Form of Order by officiating Clergyman and one Overseer of the Parish (o).*

Whereas it appears to us, the undersigned, being the officiating clergyman of the parish of —, and one of the overseers of the poor of the said parish of —, having called to our assistance A. B. ["physician," "surgeon," or "apothecary,"] that E. K., chargeable to the parish of —, is of unsound mind, and a proper person to be received into a house licensed for the reception of insane persons, we request you to receive the said E. K. into your licensed house.

(Signed) Officiating Clergyman.
 Overseer.

(F). *Form of Medical Certificate in the above Cases (o).*

I do hereby certify, that by the directions of —, justice of the peace in and for the county of — [or "the Reverend — of the parish of —, officiating minister, and — overseer,"] I have personally examined the said —, and that the said — is of unsound mind.

Dated this — day of —, 18—.

(Signed) { "Physician,"
 "Surgeon,"
 or
 "Apothecary."

(G). *Notice (p).*

Sir,

I am to acquaint you that — was received into my house on the — day of —, and I herewith transmit a copy of the order and medical certificates.

(Signed) _____

To —

The Clerk of the Metropolitan Commissioners,
[or "The Clerk of the Peace."]

(H). *Form of Notice, on Discharge, Removal, or Death of Patients (q).*

I —, of —, hereby give you notice, that —, of —, a patient in the licensed house situate in —, was removed therefrom by — of — [or "died,"] on the — day of —, 18—.

[Here describe the state of mind on removal.]

Dated this — day of —, 18—.

(Signed) _____

To —

The Clerk of the Metropolitan Commissioners in Lunacy,
[or "Clerk of the Peace."]

(I). *Medical Journal and Weekly Statement to be kept in each licensed House, for the Inspection of Commissioners or Visitors (q).*

Names of probably curable men.	Names of probably curable women.	No. of probably curable men.	No. of probably incurable men.	No. of probably curable women.	No. of probably incurable women.	No. of men under restraint.	No. of women under restraint.	General remarks on the state of health of the patients, and condition of the house.

In cases of restraint, the approbation or disapprobation of the physician, surgeon, or apothecary, to be certified.

(Signed) _____
"Physician," "Surgeon," or "Apothecary."

To be inspected by the commissioners or visitors at their visitation, and signed accordingly.

(K). *Form of Permission for regulating Medical Attendance (q).*

Whereas by an act of parliament made and passed in the second and third years of the reign of his late Majesty, intituled, "An Act for regulating for three Years, and

from thence until the end of the then next Session of Parliament, the Care and Treatment of Insane Persons in England," it is amongst other things provided and enacted, that when any house licensed for the reception of insane persons shall be licensed to receive less than eleven insane persons, then it shall and may be lawful for a majority of the commissioners at any meeting under the said act, or the visitors, if they shall so think fit, to direct and permit that such house shall be visited by the physician, surgeon, or apothecary, once at the least in every four weeks, instead of twice in every week as required by the said act: And whereas on the — day of — the metropolitan commissioners appointed under the said act [*or* "the justices"] duly granted a licence for the space of — calendar months to — for a house situate at —, in the county of — for the reception of — insane persons: And whereas the said — hath applied to the said commissioners [*or* "visitors,"] that they will be pleased to direct and permit the said house to be visited once in every four weeks, instead of twice in every week: Now know ye, that we the undersigned commissioners [*or* "visitors"], having thought fit to accede to the above request, do by this instrument in writing under our hands and seals direct and permit that the house so licensed to the said — as aforesaid, shall be visited by a physician, surgeon, or apothecary, once at the least in four weeks, instead of twice in every week as required by the said act; provided always, and it is hereby expressly declared that this permission shall be subject to such revocation or alteration as the said metropolitan commissioners [*or* "visitors"] shall think fit. Witness our hands and seals this — day of —, 18—.

Witness (L. S.)

(L. S.)

(L. S.)

(L. S.)

(L. S.)

(M). *Form of Book of Entry of Patients to be kept in the licensed Houses, and of Register to be kept by the Clerk of the Metropolitan Commissioners and Visitors, and of Annual Report to be made by Public Hospitals and Charitable Institutions (r).*

Surname and Christian name, sex and age of patient, and whether single or married.	Occupation or Profession.	Place of residence.	Date of admission of patient and by whose authority.	Date of medical certificates and by whom signed.	Whether found lunatic by inquisition.	When discharged.	Cured, not cured, or incurable.	Death.

In the book of entry of patients to be kept in a licensed house, the name, occupation, and place of abode of the person by whom such patient shall be brought must be entered; and in the register to be kept by the clerk of the commissioners, or clerk of the peace, the name of the proprietor or resident superintendent, and of the licensed house in which the patient is confined, must be added.

(N). *Form of Summons (s).*

We, whose names are hereunto set and seals affixed ["commissioners" or "visitors"] appointed under and by virtue of an act of parliament made and passed in the second and third years of the reign of his late Majesty, intituled, "An Act for regulating for three Years, and from thence until the end of the then next Session of Parliament, the Care and Treatment of Insane Persons in England," do hereby summon and require you personally to appear before us at —, in the parish of —, in the county of —, on — next, the — day of —, at the hour of — in the — noon of the same day, and then and there to be examined and testify the truth touching certain matters relating to the execution of the said act.

Given under our hands and seals this — day of —, 18—.

(L. S.)

(L. S.)

(L. S.)

Form of Conviction prescribed by the 54th Section of the Act.

—, } Be it remembered, that on the — day of — in the year of our
to wit. } Lord — at —, in the county of —, A. B. is convicted before us
—, two of her Majesty's justices of the peace for the said county, for that he the
said — did [*here state the offence*], and we the said — adjudge the said — for
his offence, to pay the sum of £—.

Machinery—See **Manufactures**.

Magazines—See **Arson**.

Maiming.

WITH intent to murder.]—By 7 Will. 4 and 1 Vict. c. 85, s. 2, whosoever shall stab, cut, or wound any person, or shall by any means whatever cause to any person any bodily injury dangerous to life, with intent to commit murder, shall be guilty of *Felony*, and being convicted thereof, *shall suffer death*.

With intent to disfigure, &c.]—By sect. 4, whosoever unlawfully and maliciously shall stab, cut, or wound any person, with intent to maim, disfigure, or disable such person, or to do some other grievous bodily harm to such person, or with intent to resist or prevent the lawful apprehension or detainer of any person, shall be guilty of *Felony*; *Transportation for life, or not less than fifteen years, or imprisonment not exceeding three years, with or without hard labour and solitary confinement*.

By sending explosive Substances, &c.]—By sect. 5, whosoever shall

unlawfully and maliciously send or deliver to, or cause to be taken or received by, any person any explosive substance, or any other dangerous or noxious thing; or shall cast or throw upon, or otherwise apply to, any person any corrosive fluid, or other destructive matter; with intent to burn, maim, disfigure, or disable any person, or to do some other grievous bodily harm to any person, and whereby any person shall be burnt, maimed, disfigured, or disabled, or receive some other grievous bodily harm; shall be guilty of *Felony, punishable as in the last section.*

Accessaries.—By *sects. 7, 8*, every principal in the second degree, being accessary before the fact, is punishable with death, or otherwise, in the same manner as the principal in the first degree; and every accessary after the fact is liable to imprisonment not exceeding two years, with or without hard labour and solitary confinement.

For maiming cattle, see *ante*, *Cattle*.

Malicious Injuries to Property—See *Mischief*. But see more particularly the title of the subject-matter of the injury.

Mandamus. When it will be granted against a magistrate—
See *ante*, *Justice*.

Manslaughter—See *Murder*.

Man-traps—See *Spring Guns*.

Manufactories.

STEALING from.—By 7 & 8 Geo. 4, c. 29, s. 16, if any person shall steal, to the value of 10s., any goods or articles of silk, woollen, linen, cotton, or of any one or more of these materials mixed with each other, or mixed with any other material, whilst laid, placed, or exposed, during any stage, process, or progress of manufacture, in any building, field, or other place; *Transportation for life, or not less than seven years, or imprisonment not exceeding four years, with or without whipping.*

Destroying manufactures and machinery.—By 7 & 8 Geo. 4, c. 30, s. 3, if any person shall unlawfully and maliciously cut, break,

or destroy, or damage with intent to destroy or to render useless, any goods or article of silk, woollen, linen, or cotton, or of any one or more of those materials mixed with each other, or mixed with any other material, or any framework knitted piece, stocking, hose, or lace, respectively being in the loom or frame, or on any machine or engine, or on the rack or tenters, or in any stage, process or progress of manufacture; or shall unlawfully and maliciously cut, break, or destroy, or damage with intent, &c. any work or shute of silk, woollen, linen, or cotton, or of any one or more of those materials mixed, &c. or any loom, frame, machine, engine, rack, tackle, or implement, whether fixed or moveable, prepared for or employed in carding, spinning, throwing, weaving, fulling, shearing, or otherwise manufacturing or preparing any such goods or articles; or shall by force enter into any house, shop, building, or place, with intent to commit any of the offences aforesaid; *Felony, punishable as above.*

By *sect. 4*, if any one shall unlawfully and maliciously cut, break, or destroy, or damage with intent, &c. any threshing machine, or any machine or engine, whether fixed or moveable, prepared for or employed in any other manufacture; *Felony, Transportation for seven years, or imprisonment not exceeding two years, with or without whipping.*

For riotously demolishing manufactories or machinery, see *post*, **Riot**.

Manufacturers. For using violence or threats to manufacturers, to compel them to alter the mode of conducting their business, see *post*, **Workmen**.

Marine Forces—See **Soldiers**.

Marine Stores.

BY 1 & 2 Geo. 4, c. 75, s. 16, all persons, who shall trade or deal in buying and selling anchors, cables, sails, or old junk, old iron, or marine stores of any kind or description, must have their names, with the words "Dealer in marine stores," painted distinctly in letters of not less than six inches in length, upon the front of all their storehouses, warehouses and other deposits for such goods. In default, they shall, on conviction before *one justice*, on the oath of one witness, forfeit not exceeding 20*l.*, nor less than 10*l.*, one half to the informer, and the other to the poor of the parish.

By the same section, it is not lawful for such dealers to cut up any cable, or any part of a cable, exceeding five fathoms in length, or uncant, untwine, or unlay the same into junk or paper stuff, on any pretence whatsoever, without first obtaining a permit from some justice residing near the residence of such dealer, on an affidavit that the cable was *bonâ fide* purchased, and without fraud, by such dealer, and without any knowledge or suspicion on his part that the same had been or was dishonestly come by, specifying also the quality and description of the cable, and the name of the seller; which affidavit shall be set forth at length in the permit; on pain of forfeiting for the first offence not exceeding 20*l.*, nor less than 10*l.*, and for any further offence not exceeding 50*l.*, nor less than 20*l.*, to be recovered before one justice, half to the informer, and half to the poor of the parish.

By sect. 17, all such dealers shall keep a book fairly written, in which entries shall be regularly made of all marine stores bought by them, containing a true account and description of the times when bought, and of the names and places of abode of the sellers; and before any dealer, who shall obtain a permit for the cutting up of any cable, shall proceed to do so, there must be published, by the space of one week at the least before cutting up the same, an advertisement in some public newspaper printed nearest to the place where the articles shall be deposited, notifying that the party had obtained such permit for cutting up the cable, and of such kind and quality as therein described, and also specifying the place where the articles are deposited; whereupon any person, who may have just cause to suspect that such articles are his property, and shall verify his suspicion on oath before such magistrate, may by warrant for that purpose granted require from such dealer the production and examination of the book of entries which he is required to keep, and may inspect and examine the cables described in such permit. If any dealer makes default in any of the above particulars, he is liable to a penalty for the first offence not exceeding 20*l.*, nor less than 10*l.*, and for any further offence not exceeding 50*l.*, nor less than 20*l.*, on conviction before one justice, to be applied as the penalties by the preceding section.

Recovery of Penalties, &c.—By the same section, all penalties may be levied by distress; in default of which the offender may be committed to gaol for six calendar months for a first offence, and for twelve calendar months for any further offence.

By sect. 19, a general form of conviction is given, which is not removable by *certiorari*; by sect. 20, an *appeal* is given to the quar-

ter sessions, on giving ten days' notice to the party appealed against, and entering into the usual recognizance; and by *sect. 21*, inhabitants of parishes are declared competent witnesses.

By 1 & 2 Geo. 4, c. 76, the same provisions are enacted relating to marine stores and dealers in them, within the jurisdiction of the Cinque Ports.

And see further *Anchors, Cordage for Shipping, Ships, Stores of War.*

Marriage.

By 6 & 7 Will. 4, c. 85, s. 39, every person who shall knowingly and wilfully solemnize any marriage in England, except by special licence, in any other place than a church or chapel in which marriages may be solemnized according to the rites of the Church of England, or than the registered building or office specified in the notice and certificate required by that act, is guilty of *Felony*; except in the case of a marriage between two Quakers, according to the usages of that society,—or between two persons professing the Jewish religion, according to the usages of the Jews. Every person, who in any such registered building or office shall knowingly and wilfully solemnize any marriage, in the absence of a registrar of the district in which such building or office is situated, is also declared to be guilty of *Felony*. And any person, who shall knowingly and wilfully solemnize any marriage in England (except by licence) within twenty-one days after the entry of the notice to the superintendent registrar (required by *sect. 4* of the act),—or if the marriage is by licence, within seven days after such entry, or after three calendar months after such entry, is likewise guilty of *Felony*.

By *sect. 40*, every superintendent registrar, who shall knowingly and wilfully issue any certificate for marriage after the expiration of three calendar months after the entry of such notice, or any certificate for marriage by licence before the expiration of seven days after the entry of the notice, or any certificate for marriage without licence before the expiration of twenty-one days after the entry of the notice, or any certificate, the issue of which shall have been forbidden by any person authorized under the act to forbid the issue of such certificate, or who shall knowingly and wilfully register any marriage by the act declared to be null and void; or who shall knowingly and wilfully issue any licence for marriage, after the expiration of three calendar months after the notice shall have been entered by the registrar; or who shall knowingly and wilfully solemnize in his

office any marriage by the act declared to be null and void ; is guilty of *Felony*.

By *sect. 41*, every prosecution must be commenced within three years after the offence committed.

For forging the register of any marriage, see *ante*, *Forgery*, p.315.

Master and Servant—See *Apprentice*, *Servants*.

Masters and Workmen—See *Workmen*.

Measures—See *Weights and Measures*.

Medicines.

LICENCES.—By 42 Geo. 3, c. 56, s. 6, and 44 Geo. 3, c. 98, sched. A, every owner, proprietor, maker, and compounder of, and every person vending, any drugs, herbs, pills, waters, essences, tinctures, powders, or other preparations or compositions, whether used or applied to, or to be used or applied externally or internally as medicines or medicaments for the prevention, cure or relief of any disorder or complaint incident to the human body, or any packets, boxes, bottles, pots, phials, or other inclosures, with any such contents, must annually take out a stamp licence, for which is to be paid 40s. if in London or the two-penny post limits ; 10s. if in any city, borough or town corporate ; and 5s. if elsewhere.

By 42 Geo. 3, c. 56, s. 9, no person shall take or receive any profit as the owner of, or make or compound, or utter, vend or expose to sale, or keep ready for sale any such drugs, herbs, &c. or any packets, &c. liable to the duties granted by the act, without a licence, on pain of 20*l.* for every such offence.

But by 52 Geo. 3, c. 156, s. 4, victuallers, confectioners, pastry-cooks, fruiterers, or other shopkeepers, who shall only sell any of the artificial or other waters mentioned in the schedule, to be drank in his house or shop, and which shall be actually drank therein, are not required to take out a licence ; provided such waters shall be sold in bottles with paper covers, wrappers, or labels duly stamped, and properly affixed to the same in the manner directed by the act.

What Medicines liable to Duties.—By *sect. 2*, certain duties are imposed upon every packet, &c. containing any drugs, &c., which

duties are (by sect. 19), to be extended to all articles specified in the schedule; but this schedule has been repealed, and the one now in force is that annexed to the 52 Geo. 3, c. 150, which, after specifying a long list of quack medicines by name, comprehends all other pills, powders, lozenges, tinctures, potions, cordials, electuaries, plasters, unguents, salves, ointments, drops, lotions, oils, spirits, medicated herbs and waters, chemical and officinal preparations whatsoever, to be used or applied externally or internally, as medicines or medicaments for the prevention, cure or relief of any disorder or complaint incident to or in anywise affecting the human body, made, prepared, uttered, vended, or exposed to sale by any person whatsoever; wherein the person making, preparing, &c. the same claims to have any occult secret or art for, or any exclusive right or title to the making or preparing the same, or which are prepared or exposed to sale under the authority of any letters-patent, or which are by any public notice or advertisement, or by any papers or handbills, or by any label or words affixed to or delivered with any packet, bottle or other inclosure containing the same, held out or recommended to the public as nostrums or proprietary medicines, or as specifics, or as beneficial to the prevention, cure or relief of any distemper, malady, ailment, disorder, or complaint incident to or in anywise affecting the human body.

Exemptions.—All mixtures, compositions, or preparations, uttered or vended by any surgeon, apothecary, chemist, or druggist, who hath served a regular apprenticeship, or by any person who has served as a surgeon in the navy or army, the different denominations, properties, qualities, virtues and efficacies of which mixtures are known, admitted and approved of in the prevention, cure or relief of any disorder or complaint incident to the human body, and wherein the person preparing, selling, or vending the same, hath not nor claims to have any occult secret or art, &c.

And by 55 Geo. 3, c. 184, s. 54, ginger and peppermint lozenges, and any other articles of confectionery, are exempt from any duties, unless the person vending the same shall vend the same as medicines, or as beneficial for the prevention, cure or relief of any distemper affecting the human body, nor is such person compelled to take out a licence.

Receiving Medicines without stamped Labels.—By 43 Geo. 3, c. 73, s. 2, if any person, who shall receive from any proprietor, compounder, or original or first vendor, or any agent employed by him,

any article subject to duty, for the purpose of selling the same again, without the label denoting the proper duty, and shall not within two days return the same to the party from whom he received the same, or give information at the stamp office, and deposit such articles with the nearest distributor of stamps, he is liable to a penalty of 20*l*.

Selling without stamped Covers.—By 52 Geo. 3, c. 150, s. 2, if any person, whether licensed or not, shall utter, vend, or expose to sale, or keep ready for sale, whether for foreign or home consumption, or buy, or receive, or keep, for the purpose of selling by retail, any packet, box, &c. containing any of the drugs, &c. mentioned in the schedule, without a proper cover, wrapper or label provided by the commissioners of stamps, and duly stamped, for denoting the duty charged on such packet, &c. being properly and sufficiently pasted or affixed thereto, so as that the same cannot be opened, and the contents poured out or taken therefrom without tearing such stamped cover, so as to prevent its being made use of again,—he shall forfeit 10*l*.

Using Covers a second time.—By 42 Geo. 3, c. 56, s. 13, if any person shall fraudulently cut, tear, or take off any mark or stamp, in respect whereof or whereby any duties are payable or denoted to be payable on any packet, &c. containing any drug, &c., after the same shall have been sold and disposed of, or shall fraudulently paste, stick, fasten, or affix to any such packet, &c. any cover, wrapper, or label so marked and stamped as aforesaid, the same having once been made use of for the purpose aforesaid; or shall utter, vend, or expose to sale any packet, &c. containing any drug, &c. with such cover, wrapper or label so fraudulently cut, torn or taken off, and pasted, stuck, fastened or affixed thereto,—he is liable to a penalty of 20*l*.

Selling or Buying such Covers.—By sect. 14, if any person shall sell or buy any such cover, wrapper, or label, which hath before been made use of for the inclosing any packet, &c. of any drug, &c. liable to duty, in order to be again made use of for the like purpose, or shall sell any packet, &c. with such cover, &c. which hath before been made use of, pasted, stuck, fastened, or affixed thereto,—he is liable to a penalty of 20*l*.

By sect. 15, either the buyer, or seller, may inform against the other, and be himself indemnified.

Notice of Place of making or vending Medicines.—By sect. 17, every person who shall make, prepare, or compound, or keep ready

for sale, or utter, vend, or expose to sale, any such drugs, &c., or any packets, &c., with any such contents as aforesaid, liable to duties, is required, before he obtains a licence, to give notice in writing of the usual shop, house, or place, where he shall make, prepare, &c. the same, to the Commissioners of Stamps, or to their officers next adjacent to the place where the same are made, prepared, &c.; and the like notice, as often as he shall change any such place; under the penalty of 10*l*.

Forging Stamps.—By *sect. 20*, the counterfeiting or forging of seals, stamps, or marks, directed to be used for the purpose of denoting the duties granted by the act, is made *felony*; for which see *ante*, **Forger**.

Application of Penalties.—By *sect. 22*, all penalties, if sued for within six calendar months, are to go one half to the King, and the other to the informer.

Mode of Proceeding.—By *sect. 25*, any justice residing near the place where the offence is committed may hear and determine the same, within six months after the commission of the offence, upon the oath of one witness; and may issue a warrant of distress, on conviction of the offender, and in default of distress, commit him to prison for three months; but the party may *appeal* to the next quarter sessions.

Witnesses.—By *sect. 26*, if any person summoned as a witness shall neglect to appear, without a reasonable excuse, he is liable to a penalty of 40*s*.

By *sect. 28*, the justice may mitigate any penalty to one half; and no conviction is removable by *certiorari*.

By 43 Geo. 3, c. 73, s. 4, all proceedings for penalties must be in the name of the attorney general, and by his authority, or by and in the name of some officer appointed by the Commissioners of Stamps.

The following general Form of Conviction is directed by the 42 Geo. 3, c. 56, s. 27.

—, } Be it remembered, that on the — day of —, in the year of our Lord
to wit. } —, at — in the county aforesaid, A. O., of —, was convicted before
me J. P., esquire, one of her Majesty's justices of the peace in and for the said county,
residing near the place where the offence hereinafter mentioned was committed: For
that the said A. O., on the — day of — now last past, did, contrary to the form
of the statute in that case made and provided [*here state the offence*]: And I do declare
and adjudge that he, the said A. O., hath forfeited the sum of £— of lawful money
of Great Britain for the offence aforesaid, to be distributed as the law directs. Given &c.

Meetings, Unlawful—See **Combinations, Disorderly House, Military Training, Riot.**

Meeting-houses—See **Dissenters.**

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Metropolitan Police.

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1. Extent of District.

BY 2 & 3 Vict. c. 47, s. 2, her Majesty may by order in council direct that any place which is part of the *Central Criminal Court District*, except the city of London and liberties thereof, and also that any part of any parish or place which is *not more than fifteen miles distant from Charing Cross* in a straight line, may form part of the metropolitan police district.

By the 4 & 5 Will. 4, c. 36, (the Central Criminal Court Act,) the limits of that district are defined to be within the city of *London* and county of *Middlesex*, and those parts of the counties of *Essex*, *Kent*, and *Surrey*, within the parishes of *Barling*, *East Ham*, *West Ham*, *Little Ilford*, *Low Layton*, *Walthamstow*, *Wanstead*, *St. Mary Woodford*, and *Chingford* in the county of *Essex*; *Charlton*, *Lee*, *Lewisham*, *Greenwich*, *Woolwich*, *Eltham*, *Plumstead*, *St. Nicholas Deptford*, that part of *St. Paul Deptford* which is within the said county of *Kent*, the liberty of *Kidbrook*, and the hamlet of *Mottingham* in the county of *Kent*; and the borough of *Southwark*, the parishes of *Battersea*, *Bermondsey*, *Camberwell*, *Christchurch*, *Clapham*, *Lambeth*, *St. Mary Newington*, *Rotherhithe*, *Streatham*, *Barnes*, *Putney*, that part of *St. Paul Deptford* which is within the said county of *Surrey*, *Tooting-Graveney*, *Wandsworth*, *Merton*, *Mortlake*, *Kew*, *Richmond*, *Wimbledon*, the *Clink Liberty* and the district of *Lambeth Palace* in the county of *Surrey*.

By 3 & 4 Vict. c. 84, s. 2, the Queen in council may constitute so many police court divisions as she may think fit, and define and alter their extent and number.

2. *Powers and Duties of Constables.*

Extended Jurisdiction.—By 2 & 3 Vict. c. 47, s. 5, the constables belonging to the metropolitan police force have the same power of acting in the counties of *Berkshire* and *Buckinghamshire*,—and upon the river *Thames* within or adjoining to the several counties of *Middlesex*, *Surrey*, *Berkshire*, *Essex*, and *Kent*, and within or adjoining to the city of *London* and the liberties thereof,—and in and on the several creeks, inlets, and waters, docks, wharfs, quays, and landing places thereto adjacent,—as fully as in any part of the metropolitan police district.

Appointment of them in the Royal Palaces.—By sect. 7, the Commissioners of Police may administer to any constable belonging to the force an oath to execute the office of constable within the *Royal Palaces* of her Majesty, and ten miles thereof; and every constable, who shall be so sworn, shall have the powers and privileges of a constable within that locality.

Additional Constables.—By sect. 8, the Commissioners may, if they shall think fit, on the application of any person showing the necessity thereof, appoint and swear any additional number of constables at any place within the metropolitan police district, at the charge of the person or persons by whom the application shall be made, but subject to the orders of the Commissioners, and for such time as they shall think fit; and every such constable shall have all the powers and duties of other constables belonging to the force. But the person or persons on whose application such appointment shall have been made, upon giving one calendar month's notice in writing to the Commissioners, may require that the constables so appointed shall be discontinued. All monies received on account of any such additional constables, shall be paid to the receiver of the metropolitan police, and shall be accounted for by him in like manner as other monies receivable by him.

Attendance at Police Courts, &c.—By sect. 11, the Commissioners shall take care that a sufficient number of constables shall be in attendance upon every magistrate sitting at any police court, and at every other criminal court within the limits of the metropolitan police district, for the purpose of executing summonses and warrants, which

(by *sect. 12*) must henceforth be served and executed by a constable of the metropolitan police force, and by none other.

Mode of executing Warrants.—By *sect. 13*, when any warrant shall be directed or delivered to any constable, unless it be necessary for the due execution thereof that such warrant be executed without delay, the constable shall deliver the same to the superintendent, or other his superior officer, who shall appoint by indorsement thereon one or more constables to execute the same; and every constable, whose name shall be so indorsed, shall have the same powers and protection in the execution of the warrant, as if the same had been originally directed to him or them by name.

Penalty for Neglect of Duty.—By *sect. 14*, every constable, who shall be guilty of any neglect or violation of his duty, shall be liable to a penalty not more than 10*l.*, the amount of which may be deducted from any salary then due to him; or, in the discretion of the magistrate, he may be imprisoned, with or without hard labour, for any time not more than one calendar month.

Restriction on Resignation.—By *sect. 15*, no constable shall be at liberty to resign his office, unless expressly allowed so to do in writing by the superintendent, nor unless he shall give to the superintendent one calendar month's notice of his intention; and every constable who shall so resign, or withdraw himself without such leave or notice, shall forfeit all arrears of pay then due to him, or a penalty not more than 5*l.*

Delivering up Accoutrements.—By *sect. 16*, every constable who shall be dismissed from, or shall cease to hold and exercise his office, and who shall not forthwith deliver over all the clothing, accoutrements, appointments, and other necessaries, which may have been supplied to him for the execution of his duty, to the superintendent, shall be liable to imprisonment, with or without hard labour, not exceeding one calendar month; and any justice may issue his warrant to search for and seize to the use of her Majesty all such clothing, &c., wherever the same may be found.

Having unlawful Possession of Accoutrements, &c.—By *sect. 17*, every person, not being a constable of the force, who shall have in his possession any part of the clothing, accoutrements or appointments supplied to any constable, and who shall not be able satisfactorily to account for his possession thereof, or shall put on the dress, or take the name, designation or character of any constable

for any unlawful purpose, shall, in addition to any other punishment to which he may be liable for such offence, be liable to a penalty not more than 10*l.*

Assaulting Constables.—By *sect. 18*, every person, who shall assault or resist any person belonging to the force, in the execution of his duty, or who shall aid or incite any person so to assault or resist, is liable to a penalty not more than 5*l.*, or, in the discretion of the magistrate, may be imprisoned not more than one calendar month.

Retention of Half-pay.—By *sect. 19*, no office or employment in the metropolitan police force shall prevent the holder thereof from receiving any half-pay.

Right to go on board Vessels, &c.—By *sect. 33*, any superintendent or inspector may enter at all times, with such constables as he shall think necessary, as well by night as by day, into every ship, boat, or other vessel (not being then actually employed in her Majesty's service) lying in the river Thames, or the creeks of such river, or in any dock thereto adjacent, for the purpose of preserving peace and good order on board, and for the effectual prevention or detection of any felonies or misdemeanors. And (by *sect. 34*) any serjeant, having just cause to suspect that any felony has been, or is about to be, committed on board of any such ship, boat or other vessel, has also the same right of entry, for the effectual prevention or detection of the felony; and the serjeant, as well as the superintendent and inspector, may take into custody all persons suspected of being concerned in such felony, and may also take charge of all property suspected to have been stolen.

Gunpowder.—By *sect. 35*, every superintendent or inspector, with such constables as he shall think necessary, may, at any time between sun-rising and sun-setting, enter any ship, boat, or vessel (except her Majesty's ships) in the river Thames, and the docks and creeks adjacent, and search the same for unlawful quantities of gunpowder, and also exercise the same powers of seizing, removing to proper places, and detaining all such unlawful quantities of gunpowder found on board any such ship, boat or vessel, and the barrels or other packages in which such gunpowder shall be, as are given to persons under the warrant of a justice by virtue of the 12 Geo. 3, c. 61.

When a Right to act without a Warrant.—By *sect. 54*, any constable may take into custody, without warrant, any person who shall commit any offence within his view, which is prohibited by that sec-

tion (t). And by *sect. 62*, he may apprehend, without a warrant, any person who by committing any offence against the act shall have caused any hurt or damage to any person or property.

By *sect. 63*, any constable, and all persons whom he shall call to his assistance, may also take into custody, without a warrant, any person who within view of the constable shall offend in any manner against the act, and whose name and residence shall be unknown to and cannot be ascertained by him. By *sect. 64*, also, he may take into custody, without a warrant, all loose, idle, and disorderly persons, whom he shall find disturbing the public peace, or whom he shall have good cause to suspect of having committed, or being about to commit, any felony, misdemeanor, or breach of the peace, and all persons whom he shall find between sun-set and the hour of eight in the morning, lying or loitering in any highway, yard, or other place, and not giving a satisfactory account of themselves. And by *sect. 65*, he may likewise take into custody, without warrant, any person who shall be charged with committing any aggravated assault, in every case in which the constable shall have good reason to believe that such assault has been committed, although not within his view, and that by reason of the recent commission of the offence a warrant could not have been obtained for the apprehension of the offender.

By *sect. 66*, any constable may also apprehend, without warrant, any person committing any offence against the act, and may likewise stop, search, and detain, any vessel, boat, cart, or carriage, in or upon which there shall be reason to suspect that any thing stolen, or unlawfully obtained, may be found, and also any person who may be reasonably suspected of having or conveying the same.

By *sect. 67*, also, any constable may stop and detain, until due inquiry can be made, all carts and carriages, which he shall find employed in removing the furniture of any house or lodging, between the hours of eight in the evening and six in the following morning, or whenever the constable shall have good grounds for believing that such removal is made for the purpose of evading the payment of rent.

Right of private persons to apprehend.]—By *sect. 66*, any person found committing any offence against the act may be also apprehended, without a warrant, by the owner of the property, on or with respect to which the offence shall be committed, or by his servant, or any person authorized by him, and may be detained until he can be delivered

(t) See *post*, p. 572.

into the custody of a constable, to be dealt with according to law. And any person, to whom any property shall be offered to be sold, pawned, or delivered, if he shall have reasonable cause to suspect that it has been stolen or otherwise unlawfully obtained, is authorized, and if in his power is required, to apprehend and detain the offender, and as soon as may be to deliver him into the custody of a constable, together with such property, to be dealt with according to law.

Detention of Horses, Carts, &c.—By *sect. 68*, whenever any person having charge of any horse, cart, carriage, or boat, or any other animal or thing, shall be taken into the custody of any constable, he may take charge of and deposit the same in some place of safe custody, as a security for payment of any penalty, to which the person having had charge thereof may become liable, and for payment of any necessary expenses.

How Persons apprehended without Warrant to be dealt with.—By *sect. 69*, every person taken into custody by any constable without warrant, except persons detained for the mere purpose of ascertaining their name or residence, shall be forthwith delivered into the custody of the constable in charge of the nearest station house, in order that such person may be secured until he can be brought before a magistrate, or may give bail for his appearance in the manner after mentioned.

When a Constable may take Bail.—By *sect. 70*, whenever any person, charged with any offence of which he is liable to be summarily convicted, or with having carelessly done any hurt or damage, shall be, without a warrant, in the custody of any constable in charge of any station house, when the police courts shall be shut, the constable, if he shall deem it prudent, may take the recognizance of such person, with or without sureties, conditioned as after mentioned.

By *sect. 71*, whenever a person charged with any felony, or any misdemeanor punishable with transportation, or other grave misdemeanor, shall be, without warrant, in the custody of any constable at any station house, during the time when the police courts shall be shut, the constable in charge of the station house may require the person making such charge to enter into a recognizance, conditioned as after mentioned; and upon his refusal so to do, the constable, if he shall deem it prudent, may discharge from custody the person so charged upon his or her recognizance, with or without sureties, conditioned as after mentioned.

Requisitions of the Recognizance.—By *sect. 72*, every recognizance so taken shall be without fee or reward, and shall be conditioned for the appearance of the person thereby bound before a magistrate of the district in which such station house shall be situated, at his next sitting, and the time and place of appearance shall be specified in the recognizance; and the constable shall enter in a book to be kept for that purpose at every such station house the name, residence, and occupation of the party, and surety or sureties (if any) entering into such recognizance, together with the condition thereof, and the sum thereby acknowledged, and shall return every such recognizance to the magistrate present at the time and place when and where the party is bound to appear.

By 3 & 4 Vict. c. 84, s. 8, every recognizance taken at any station house of the metropolitan police force, situated in a division in which a police magistrate is not in daily attendance, shall be conditioned for the appearance of the person thereby bound before the magistrate or justices acting in the division, at his or their next sitting; and every such recognizance shall be returned to the magistrates or justices present at the time and place where the party is bound to appear.

3. *Offences committed on the River Thames.*

Bum-boats.—By *sect. 25*, every person who shall use, work, or navigate any boat whatsoever upon the river *Thames*, for the purpose of selling, disposing of, or exposing for sale to and amongst the seamen and other persons employed in and about any of the ships or vessels upon the river, any liquors, slops, or other articles whatsoever, between London Bridge and Limehouse Hole, shall be deemed to keep such boat for gain, and shall be within all the provisions of 7 & 8 Geo. 4, c. 75, for the better regulation of the watermen and lightermen on the river Thames between Yantlet Creek and Windsor.

Taking from Seamen part of Cargo, &c.—By *sect. 26*, every person, who within the metropolitan police district shall knowingly take in exchange from any seaman, or other person, not being the owner or master of any vessel, any thing belonging to any vessel lying in the river Thames, or in any of the docks or creeks adjacent thereto, or any part of the cargo of any such vessel, or any stores or articles in charge of the owner or master of any such vessel, shall be deemed guilty of a *misdemeanor*.

Cutting and Destroying Tackle, &c.—By *sect. 27*, every person, who shall unlawfully cut, damage, or destroy any of the ropes, cables,

cordage, tackle, headfasts, or other the furniture of or belonging to any ship, boat, or vessel lying in the river Thames, or in any of the docks or creeks thereto adjacent, with intent to steal or otherwise unlawfully obtain the same, or any part thereof, shall be deemed guilty of a *misdemeanor*.

Throwing into River Ship's Furniture, &c.—By sect. 28, any constable may take into custody every person, who, for the purpose of preventing the seizure or discovery of any materials, furniture, stores, or merchandize, belonging to or having been part of the cargo of any ship, boat, or vessel lying in the river Thames, or the docks or creeks adjacent thereto, or of any other articles unlawfully obtained from any such ship or vessel, shall wilfully let fall or throw into the river, or in any other manner convey away, from any ship, boat, or vessel, wharf, quay, or landing place, any such article, or who shall be accessory to any such offence, and also seize and detain any boat in which such person shall be found, or out of which any article shall be so let fall, thrown, or conveyed away; and every such person shall be deemed guilty of a *misdemeanor*.

Keeping Guns loaded on Board, &c.—By sect. 36, every master or commander, or other officer, of any ship, boat, or vessel, (except her Majesty's ships,) who, while such ship or vessel shall lie or be in the river Thames, between Westminster Bridge and Blackwall, shall keep any gun on board shotted or loaded with ball, or cause or permit to be fired any gun before sun-rising or after sun-setting, shall be liable for every gun so kept shotted or loaded to a penalty of five shillings, and for every gun so fired to a penalty of ten shillings.

Heating combustible matter on Board.—By sect. 37, every master or commander or any other person on board of any vessel lying in the river between Westminster Bridge and Blackwall, who shall heat or melt, or cause or permit to be heated or melted, on board any pitch, tar, rosin, grease, tallow, oil, or other combustible matter, is liable to a penalty not more than 5*l*.

4. *Offences committed in Docks, Canals, &c.*

By sect. 30, every person who shall be found in or upon any canal, dock, warehouse, wharf, quay, or bank, or on board any ship or vessel, having in his or her possession any tube or other instrument for the purpose of unlawfully obtaining any wine, spirits, or other liquors, or having in his or her possession any skin, bladder, or other material or utensil, for the purpose of unlawfully secreting or carry-

ing away any such wine, spirits, or other liquors, and any person who shall unlawfully attempt to obtain any such wine, &c., shall be deemed guilty of a *misdemeanor*.

By *sect. 31*, every person who shall bore, pierce, break, cut open, or otherwise injure any cask, box, or package, containing wine, spirits, or other liquors, on board any ship, boat, or vessel, or in or upon any warehouse, wharf, quay, or bank, with intent feloniously to steal, or otherwise unlawfully obtain any part of the contents thereof, or who shall unlawfully drink, or wilfully spill, or allow to run to waste, any part of the contents thereof, shall also be deemed guilty of a *misdemeanor*.

By *sect. 32*, every person who shall wilfully cause to be broken, pierced, started, cut, torn, or otherwise injured, any cask, chest, bag, or other package containing, or prepared for containing, any goods, while on board of any barge, lighter, or other craft, lying in the river Thames, or any dock, creek, quay, wharf, or landing place adjacent to the same, or in the way to or from any warehouse, with intent that the contents of such package, or any part thereof, may be spilled or dropped, shall likewise be deemed guilty of a *misdemeanor*.

5. *Regulations as to Public Houses.*

By *sect. 41*, every person who, by reason of his or her freedom of the Vintners' Company, shall claim to be entitled to sell foreign wine by retail, to be drunk or consumed on the premises, without licence, shall be subject to all the provisions of all acts made for the regulation of persons so licensed (except those provisions which require the taking out of a licence, either from any justice of the peace, or from the Commissioners of Excise) and, in the case of any offence committed by him or her against the tenor of the licence granted under the provisions of any act for the sale of exciseable liquors by retail, to be drunk or consumed on the premises, shall be liable to be punished in like manner as if selling wine by licence.

Regulation for Sundays.—By *sect. 42*, no licensed victualler, or other person, shall open his house for the sale of wine, spirits, beer, or other fermented or distilled liquors on *Sundays, Christmas Day, and Good Friday* before the hour of one in the afternoon, except for refreshment for travellers.

Selling Liquors to Children.—By *sect. 43*, every person licensed to deal in exciseable liquors, who shall knowingly supply any sort of distilled exciseable liquor to any boy or girl apparently under the

age of sixteen years, to be drunk upon the premises, shall be liable to a penalty not more than 20s.,—for a second offence not more than 40s.,—and for a third offence not more than 5l.

Suffering disorderly Conduct.—By sect. 44, every person who shall have or keep any house, shop, room, or place of public resort, wherein provisions, liquors, or refreshments of any kind shall be sold or consumed (whether the same shall be kept or retailed therein, or procured elsewhere), and who shall wilfully or knowingly permit drunkenness or other disorderly conduct in such house, &c., or knowingly suffer any unlawful games or any gaming whatsoever therein, or knowingly permit or suffer prostitutes or persons of notoriously bad character to meet together and remain therein, shall be liable to a penalty of not more than 5l.; and if the offender be a licensed victualler or beer seller, he will not be exempted from the penalties for committing an offence against the tenor of his licence.

Internal Communication with unlicensed Houses.—By sect. 45, every person who shall make or use, or allow to be made or used, any internal communication between any house, shop, room, or place of public resort, not licensed for the sale of wine, spirits, beer, or other excisable articles, and any house &c. licensed for such sale, or in which wine is sold by a free vintner, shall be liable to a penalty not more than 10l. for every day that such communication shall be open.

6. *Gaming Houses.*

By sect. 48, if any superintendent shall report in writing to the Commissioners, that there are good grounds for believing any house or room to be kept or used as a common gaming house, and if two or more householders, not belonging to the metropolitan police force, shall make oath in writing, to be by them taken and subscribed before a magistrate and annexed to the said report, that the premises are commonly reported, and are believed by the deponents, to be kept or used as a common gaming house, the Commissioners may by order in writing authorize the superintendent to enter any such house or room, with such constables as shall be directed by the Commissioners to accompany him, and (if necessary) to use force by breaking open doors, or otherwise, and to take into custody all persons who shall be found therein, and to seize and destroy all tables and instruments of gaming, and also to seize all monies and securities for money found therein; and the owner or keeper of the gaming house, or other person having the care and management thereof, and also every

banker, croupier, and other person who shall act in any manner in conducting the said gaming house, shall be liable to a penalty not more than 100*l.*, or, in the discretion of the magistrate, may be committed to the house of correction, with or without hard labour, for not more than six calendar months. And, upon conviction of any such offender, all the monies and securities which shall have been so seized shall be paid to the receiver of the metropolitan police, to be by him applied towards defraying the charge of the police; and every person found in such premises, without lawful excuse, shall be liable to a penalty not more than 5*l.* This provision will not prevent any proceeding by indictment against the offender, except that no person shall be proceeded against by indictment, and also under this act, for the same offence.

By *sect. 49*, in any information for gaming under the act, it is not necessary to prove that any person found playing at any game was playing for any money, wager, or stake.

7. *Pawnbrokers, &c.*

By *sect. 50*, every pawnbroker, and every agent or servant employed by him, who shall purchase, or receive, or take any goods or chattels in pawn or pledge of or from any person apparently under the age of sixteen years, shall be liable to a penalty not more than 5*l.*

By *sect. 66*, any person to whom any property shall be offered to be sold, pawned, or delivered, if he shall have reasonable cause to suspect that any offence has been committed with respect to such property, or that the same, or any part thereof, has been stolen, or otherwise unlawfully obtained, is authorized, and if in his power is required, to apprehend and detain the party, and as soon as may be to deliver him into the custody of a constable, together with such property, to be dealt with according to law.

False Bills, &c.—By *sect. 29*, every person who, for the purpose of protecting or preventing anything whatsoever from being seized on suspicion of its being stolen, or otherwise unlawfully obtained, or of preventing the same from being produced or made to serve as evidence concerning any felony or misdemeanor, shall frame, or cause to be framed, any bill of parcels containing any false statement in regard to the name or abode of any alleged vendor, the quantity or quality of any such thing, the place whence, or the conveyance by which, the same was furnished, the price agreed upon or charged for the same, or any other particular, knowing such statement to be

false; or who shall fraudulently produce such bill of parcels, knowing the same to have been fraudulently framed; shall be guilty of a *misdeemeanor*.

8. *Theatres.*

By *sect. 46*, the Commissioners of Police, by order in writing, may authorize any superintendent, with such constables as he may think necessary, to enter into any house or room, kept or used for stage-plays or dramatic entertainments, into which admission is obtained by payment of money, and which is not a licensed theatre, at any time when the same shall be open for the reception of persons resorting thereto, and to take into custody all persons who shall be found therein without lawful excuse; and every person keeping, using, or knowingly letting any house, or other tenement, for the purpose of being used as an unlicensed theatre, shall be liable to a penalty not more than 20*l.*, or in the discretion of the magistrate may be committed to the house of correction, with or without hard labour, for not more than two calendar months; and every person performing, or being therein without lawful excuse, shall be liable to a penalty not more than 40*s.* A conviction under this act will not exempt the owner, keeper, or manager from any penalty for keeping a disorderly house, or for the nuisance thereby occasioned.

9. *Bear Baiting, Cock Fighting, &c.*

By *sect. 47*, every person who shall keep or use, or act in the management of, any house, room, pit, or other place, for the purpose of fighting or baiting lions, bears, badgers, cocks, dogs, or other animals, shall be liable to a penalty not more than 5*l.*, or, in the discretion of the magistrate, may be committed to the house of correction, with or without hard labour, for not more than one calendar month. And the Commissioners of Police may, by order in writing, authorize any superintendent, with such constables as he shall think necessary, to enter any premises kept or used for any of the purposes aforesaid, and to take into custody all persons who shall be found therein without lawful excuse, and every person so found shall be liable to a penalty not more than 5*s.* A conviction under this act, however, will not exempt the party from any other penalty for the nuisance thereby occasioned.

10. *Nuisances in Streets and Thoroughfares.*

By *sect. 54*, every person shall be liable to a penalty not more than

40s., who, within the limits of the metropolitan police district, shall, in any thoroughfare, or public place, commit any of the following offences:—

1. *Horses and Cattle, &c.*—Every person who shall, to the annoyance of the inhabitants or passengers, expose for show or sale, (except in a market lawfully appointed for that purpose,) or feed, or fodder any horse, or other animal, or show any caravan containing any animal, or any other show or public entertainment, or shoe, bleed, or farry any horse or animal, (except in cases of accident,) or clean, dress, exercise, train, or break any horse or animal, or clean, make, or repair any part of any cart or carriage, except in cases of accident where repair on the spot is necessary.
2. Every person, who shall turn loose any horse or cattle, or suffer to be at large any unmuzzled ferocious dog (*u*), or set on or urge any dog or other animal to attack, worry, or put in fear, any person, horse, or other animal.
3. Every person who, by negligence or ill-usage in driving cattle, shall cause any mischief to be done by them, or who shall in anywise misbehave himself in the driving, care, or management of them, and also every person, not being hired or employed to drive such cattle, who shall wantonly and unlawfully pelt, drive, or hunt them.
4. *Carts and Carriages, &c.*—Every person having the care of any cart or carriage, who shall ride on any part thereof, on the shafts, or on any horse or other animal drawing the same, without having and holding the reins, or who shall be at such a distance from such cart or carriage, as not to have the complete control over every horse or other animal drawing the same.
5. Every person who shall *ride or drive furiously*, or so as to endanger the life or limb of any person, or to the common danger of the passengers in any thoroughfare.
- 6, and 9. Every person who shall cause any cart, public carriage, sledge, truck, or barrow, with or without horses, to stand longer than may be necessary for loading or unloading, or for taking up or setting down passengers, except hackney carriages standing for hire in any place not forbidden by law; or

(*u*) And see *post*, *sect.* 56, 61, p. 576.

who by means of any cart, carriage, sledge, truck, or barrow, or any horse or other animal, shall wilfully interrupt any public crossing, or wilfully cause any obstruction in any thoroughfare.

9. Every person who, after being made acquainted with the regulations or directions which the Commissioners of Police shall have made for regulating the route of horses, carts, carriages, and persons during the time of divine service, and for preventing obstructions during public processions, and on other occasions before specified, shall wilfully disregard or not conform himself thereunto (*x*).
7. *Footways.*—Every person who shall lead or ride any horse, or other animal, or draw or drive any cart or carriage, sledge, truck, or barrow, upon any footway or curbstone, or fasten any horse, or other animal, so that it can stand across or upon any footway.
8. Every person who shall roll or carry any cask, tub, hoop, or wheel, or any ladder, plank, pole, showboard, or placard, upon any footway, except for the purpose of loading or unloading any cart or carriage, or of crossing the footway (*y*).
10. *Billstickers, &c.*—Every person who, without the consent of the owner or occupier, shall affix any posting bill, or other paper, against or upon any building, wall, fence, or pale, or write upon, soil, deface, or mark any such building, wall, fence, or pale, with chalk or paint, or in any other way whatsoever, or wilfully, break, destroy, or damage any part of such building, wall, fence, or pale, or any fixture or appendage thereunto, or any tree, shrub, or seat, in any public walk, park, or garden.
11. *Prostitutes.*—Every common prostitute, or nightwalker, loitering or being in any thoroughfare, or public place, for the purpose of prostitution, or solicitation, to the annoyance of the inhabitants or passengers.
12. *Indecent Books, &c.*—Every person, who shall sell or distribute, or offer for sale or distribution, or exhibit to public view, any profane, indecent, or obscene book, paper, print, drawing, painting, or representation, or sing any profane, indecent, or obscene song or ballad, or write or draw any inde-

(*x*) And see post, sects. 59, 68, p. 576.

(*y*) And see post, sect. 60, § 6, 7, 8.

cent or obscene word, figure, or representation, or use any profane, indecent, or obscene language, to the annoyance of the inhabitants or passengers.

13. *Abusive Language.*—Every person, who shall use any threatening, abusive, or insulting words or behaviour, with intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned.

14. *Horns, Bells, &c.*—Every person, except the guards and postmen belonging to her Majesty's Post Office in the performance of their duty, who shall blow any horn, or use any other noisy instrument, for the purpose of calling persons together, or of announcing any show or entertainment, or for the purpose of hawking, selling, distributing, or collecting any article whatsoever, or of obtaining money or alms.

15. *Firearms, &c.*—Every person, who shall wantonly discharge any firearm, or throw or discharge any stone or other missile, to the damage or danger of any person, or make any bonfire, or set fire to any firework. And see *infra*, sect. 55.

16. *Knockers, Door Bells, &c.*—Every person, who shall wilfully and wantonly disturb any inhabitant, by pulling or ringing any door bell, or knocking at any door, without lawful excuse, or who shall wilfully and unlawfully extinguish the light of any lamp.

17. *Flying Kites, &c.*—Every person, who shall fly any kite, or play any game, to the annoyance of the inhabitants or passengers, or who shall make or use any slide upon ice or snow in any street, or other thoroughfare, to the common danger of the passengers.

And it shall be lawful for any constable belonging to the metropolitan police force to take into custody, without warrant, any person who shall commit any such offence within view of any such constable.

Firearms.—By sect. 55, no person, other than persons acting in obedience to lawful authority, shall discharge any cannon, or other firearm, of greater calibre than a common fowling piece, within 300 yards of any dwelling-house, to the annoyance of any inhabitant thereof; and every person who, after being warned of the annoyance by any inhabitant, shall discharge any such firearm, shall be liable to a penalty not more than 5*l*.

Dog Carts.—By *sect. 56*, every person who shall use any dog for the purpose of drawing or helping to draw any cart, carriage, truck, or barrow, shall be liable to a penalty not more than 40s. for the first offence, and not more than 5l. for the second or any following offence.

Mad Dogs.—By *sect. 61*, any constable may destroy any dog, or other animal, reasonably suspected to be in a rabid state, or which has been bitten by any dog or animal reasonably suspected to be in that state; and the owner of any such dog or animal, who shall permit the same to be at large, after having information, or reasonable ground for believing it to be in a rabid state, or to have been bitten by any dog or other animal in a rabid state, shall be liable to a penalty not more than 5l. (z).

Street Music.—By *sect. 57*, any householder may personally, or by his servant, or by any police constable, require any street musician to depart from the neighbourhood of his house, on account of the illness of any inmate of such house, or for other reasonable cause; and every person, who shall sound or play upon any musical instrument in any thoroughfare near any house, after being so required to depart, shall be liable to a penalty not more than 40s.

Drunkenness.—By *sect. 58*, every person, who shall be found drunk in any street or public thoroughfare, and who while drunk shall be guilty of any riotous or indecent behaviour, and also every person, who shall be guilty of any violent or indecent behaviour in any police station house, shall be liable to a penalty of not more than 40s. for every such offence; or he may be committed,—if the magistrate before whom he shall be convicted shall think fit, instead of inflicting on him any pecuniary penalty,—to the house of correction for not more than seven days.

Carts and Carriages.—By *sect. 59*, every person, who shall ride upon, or cause himself to be carried or drawn by, any carriage, without the consent of the owner or driver thereof, shall be liable to a penalty not more than 5s.,—or, if a child apparently under the age of twelve years, the magistrate may cause such child to be detained, until his parent or guardian can attend for the purpose of having him delivered up to his care,—and if such parent or guardian do not so attend before the closing of the police court for the day, the magistrate may order the child to be discharged.

By *sect. 60*, every person, who in any street, or public place, shall

(1) And see *ante*, p. 573, § 2.

be guilty of any of the following offences, shall be liable to a penalty not more than 40*s.* for every such offence:—

1. Every person who, in any thoroughfare, shall burn, dress, or cleanse any cork; or hoop, cleanse, fire, wash, or scald any cask or tub; or hew, saw, bore, or cut any timber or stone; or slack, sift, or screen any lime.
2. Every person, who shall throw or lay in any thoroughfare any coals, stones, slates, shells, lime, bricks, timber, iron, or other materials (except building materials, or rubbish thereby occasioned, which shall be placed or inclosed so as to prevent any mischief happening to passengers).
3. Every person, who in any thoroughfare shall beat or shake any carpet, rug, or mat, (except door mats before eight in the morning); or throw or lay any dirt, litter, or ashes, or any carrion, fish, offal, or rubbish; or throw, or cause any such thing to fall into any sewer, pipe, or drain, or into any well, stream, or watercourse, pond or reservoir for water; or cause any offensive matter to run from any manufactory, brewery, slaughter house, butcher's shop, or dunghill into any thoroughfare, or any uncovered place, whether or not surrounded by a wall or fence. But it shall not be deemed an offence to lay sand or other materials in any thoroughfare, in time of frost, to prevent accidents,—or litter, or other materials, to prevent the freezing of water in pipes,—or, in case of sickness, to prevent noise; if the party, laying any such things, shall cause them to be removed as soon as the occasion for them shall cease.
4. Every person, who shall empty, or begin to empty, any privy, between the hours of six in the morning and twelve at night; or remove along any thoroughfare any night soil, soap lees, ammoniacal liquor, or other such offensive matter, between the hours of six in the morning and eight in the evening; or who shall at any time use for any such purpose any cart or carriage not having a proper covering; or who shall wilfully or carelessly slop or spill any such offensive matter in the removal thereof; or who shall not carefully sweep and clean every place, in which any such offensive matter shall have been placed, slopped, or spilled; and, in default of the apprehension of the actual offender, the owner of the cart or carriage employed for any such purpose shall be deemed to be the offender. But the Commissioners of Sewers, or any person

acting in their service, or by their direction, are not to be prevented from emptying or removing along any thoroughfare, at any time, the contents of any sewer which they are authorized to cleanse or empty.

5. Every person, who shall keep any *pigstye* in the front of any street or road in any town within the said district, not being shut out from such street or road by a sufficient wall or fence, or who shall keep any swine in or near any street, or in any dwelling, so as to be a common nuisance.
6. *Footways (a).*—Every occupier of a house or other tenement in any town within the said district, who shall not keep sufficiently swept and cleansed all footways and watercourses adjoining to the premises occupied by him; and if any tenement be empty or unoccupied, the owner thereof shall be deemed the occupier, with reference to this enactment.
7. Every person, who shall expose any thing for sale in any park or public garden, (unless with the consent of the owner, or other person authorized to give such consent,) or upon, or so as to hang over, any carriageway or footway, or on the outside of any house or shop; or who shall set up or continue any pole, blind, awning, line, or any other projection from any window, parapet, or other part of any house, shop, or other building, so as to cause any annoyance or obstruction in any thoroughfare.
8. Every person who, to the danger of passengers in any thoroughfare, shall leave open any vault or cellar, or the entrance from any thoroughfare to any cellar or room underground, without a sufficient fence or handrail, or leave defective the door, window, or other covering of any vault or cellar; or who shall not sufficiently fence any area, pit, or sewer left open in or adjoining to any thoroughfare; or who shall leave such open area, pit, or sewer, without a sufficient light after sun-set to warn and prevent persons from falling thereinto.

11. *Offenders causing Hurt or Damage.*

By *sect. 62*, every person who, by committing any offence forbidden by the act, shall have caused any hurt or damage to any person or property, may be apprehended, with or without any warrant, by any constable; and if he shall not, upon demand, make amends for such

(a) And see *ante*, p. 574, *sect. 54*, ¶ 7, 8.

hurt or damage, to the satisfaction of the party aggrieved, he shall be detained by the constable, in order to be taken before a magistrate; and, upon conviction, shall pay such a sum, not more than 10*l.*, as shall appear to the magistrate (before whom he shall be convicted) to be reasonable amends to the person aggrieved, besides any penalty to which he may be liable for the offence; and the evidence of the person aggrieved shall be admitted in proof of the offence. But if the person aggrieved shall have been the only witness examined in proof of the offence, the sum ordered as amends shall be paid and applied in the same manner as a penalty.

When Carts, &c. liable to Distress and Sale.—By *sect. 68*, whenever any person, having charge of any horse, cart, carriage, or boat, or any other animal or thing, shall be taken into the custody of any constable, he may take charge of and deposit the same in some place of safe custody. And any magistrate, before whom the case shall have been heard, may order the same to be sold for the purpose of satisfying any penalty, to which the person having had charge thereof may become liable, and all reasonable expenses, in default of payment thereof, in like manner as if the same had been subject to be distrained, and had been distrained for the payment of such penalty and reasonable expenses.

Penalties.—By *sect. 73*, for every misdemeanor or other offence against the act, for which no special penalty is appointed, the offender shall, at the discretion of the magistrate before whom the conviction shall take place, either be liable to a penalty not more than 5*l.*, or be imprisoned for any time not more than one calendar month, in any gaol or house of correction within the jurisdiction of such magistrate.

Conviction.—By *sect. 76*, all offenders may be summarily convicted on the oath of one or more witnesses, or by his own confession, and the matter of every complaint shall be heard and determined by one of the justices appointed to be a magistrate of the police courts of the metropolis, at one of the said police courts; or, if the offence shall have been committed, or the offender apprehended, in any part of the metropolitan police district for which no police court shall be established, the matter of such complaint may be then heard and determined by any two or more justices acting in and for the county in which the offence was committed, or the offender apprehended.



Metropolitan Police Courts.

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1. *Of the Justices.*

JURISDICTION.]—By 2 & 3 Vict. c. 71, s. 1, the magistrates of the police courts are constituted justices of the counties of *Middlesex, Surrey, Kent, Essex*, and *Hertfordshire*, the city and liberty of *Westminster*, and the liberty of the *Tower of London*.

Number.]—By *sect. 2*, her Majesty in council may alter the number of the police courts, and the number of the magistrates, and the places where they are held, provided that there shall not be at any time more than twenty-seven magistrates; and by 3 & 4 Vict. c. 84, s. 2, she may also constitute so many police court divisions as she may think fit, and define and alter their extent and number.

Qualification.]—By 2 & 3 Vict. c. 71, s. 3, vacancies are to be supplied from barristers of seven years' standing, or those of four years' standing who have practised for three years as a special pleader. The magistrates may act as justices, without having the qualification by estate required of other justices of the peace; and before they can act, they must be sworn in before one of the judges.

Penalty for voting at Elections.]—By *sect. 6*, none of the magistrates, clerks, ushers, door-keepers, or messengers shall be capable of giving his vote for the election of a member to serve in parliament for the counties of *Middlesex* or *Surrey*, or for the city of *London*, or for the city and liberty of *Westminster*, or for the boroughs of the *Tower Hamlets, Finsbury, Mary-le-bone, Southwark, Lambeth*, or *Greenwich*; nor shall he by any word, message, writing, or in any other manner, endeavour to persuade any elector to give, or to dissuade any elector from giving, his vote for the choice of any person to be a member to serve in parliament for any such county, city, or borough, under the penalty of one hundred pounds; one moiety thereof to the informer, and the other moiety thereof to the use of the poor of the parish or place where such offence shall be committed, to be recovered by any person that shall sue for the same in any of her Majesty's courts of record at *Westminster*, within the space of one year after such offence committed.

Provision, in case of the Establishment of a Court for Recovery of Small Debts.—By *sect. 10*, after the passing of any act for the establishment of a civil court of summary jurisdiction for the recovery of small debts within the metropolitan police district, her Majesty may appoint all or any of the said magistrates to take upon them the duties of a judge of such civil court, either exclusively, or in conjunction with his duties as police magistrate, in such manner as her Majesty shall think fit to direct; but no such magistrate shall be therefore entitled to any other additional salary.

Time of Attendance.—By *sect. 12*, on every day, excepting *Sundays, Christmas Day, Good Friday*, or any day appointed for a public fast or thanksgiving, one of the magistrates shall attend at each of the police courts from ten in the morning until five in the afternoon; and also at such other times as urgent necessity may require, or shall be directed by the Secretary of State, who shall have power, from time to time, to direct at which court each of the magistrates shall attend. But by 3 & 4 Vict. c. 84, s. 3, this provision only applies to the courts then established; and, by *sect. 4*, her Majesty may order a police magistrate or magistrates to attend regularly at any police court thereafter to be established, on such days and times as she may think fit.

One Justice may act.—By 2 & 3 Vict. c. 71, s. 12, where by any law now in being, or by any act not containing an express enactment to the contrary hereafter to be made, any act is directed or authorized to be done by any justice or justices of the peace belonging to any of the said offices, or by any justice or justices residing in or near or next the parish or place where any offence, or other matter cognizable before him or them, shall be committed, or shall arise, the same jurisdiction may be exercised by *one* of the said magistrates in any of the said courts.

By *sect. 14*, any *one* of the magistrates may also do alone any act at any of the said courts, which, by any law now in force, or by any law not containing an express enactment to the contrary hereafter to be made, is or shall be directed to be done by more than one justice. But none of the magistrates shall be competent to act as a justice of the peace, either alone, or with any other justice, in anything which is to be done at a special or petty session of all the justices acting in the division, or by the justices of any of the said counties or liberties in quarter sessions assembled.

Jurisdiction of other Justices.—By 3 & 4 Vict. c. 84, s. 6, any

two justices having jurisdiction within the metropolitan police district, whilst sitting together in the room used for holding special or petty sessions, except in the divisions assigned to the police courts, are vested with all the powers of any one police magistrate. But whenever a new police court is established within the metropolitan police district, and a division assigned to such court, such justices shall not act in that division elsewhere than at such court. And at every police court at which the regular attendance of a police magistrate shall have been ordered by her Majesty, the police magistrate, while present in such court, shall act as the sole magistrate.

And by *sect. 15*, any two justices of the peace for the city of *London*, have also within the city and its liberties, all the powers, privileges, and duties, which any two justices having jurisdiction within the metropolitan police district have within such district by virtue of that act.

Justices may hold Quarterly Meetings.—By 2 & 3 Vict. c. 71, s. 15, the police magistrates, or so many as may be able to attend, shall meet together once in every quarter of a year, at such time and place as the Secretary of State shall appoint; and the chief magistrate shall preside at such meetings, or in his absence, such one of the magistrates as shall be chosen by those then present; and every magistrate shall furnish for the use of such meeting a report of his proceedings in the execution of the act; and each of the magistrates, and also the Commissioners of Police, shall furnish a report of any matters relating to the execution of this act, or to the police of the metropolis, which they shall be desirous of bringing under the notice of the magistrates assembled at such meeting; and the magistrates so assembled shall take every such report into consideration; and an abstract shall be made under the direction of the magistrates of all the said reports, and also a report of any matters which they, or the majority of them assembled at any such meeting, shall be desirous of bringing under the notice of the Secretary of State. The meeting may be adjourned from time to time, for the purpose of considering such report; and the abstract and report, when made, shall be delivered to the Secretary of State.

No Justices but a Police Magistrate to take Fees within the District.—By 2 & 3 Vict. c. 71, s. 42, no justice of the peace, not being one of the magistrates of the metropolitan police court, nor the clerk of any such justice, nor any person on his behalf, shall directly or indirectly, upon any pretence whatever, take any fee or recompence for

any act by him or them done, or to be done, as justice of the peace, or clerk, within any part of the metropolitan police district, for which a police court shall have been established, upon pain of forfeiting the sum of one hundred pounds for every such offence; one moiety thereof to go to the Receiver, to be applied to the purposes of the act, and the other moiety thereof, with full costs of suit, to the person who shall sue for the same in any of her Majesty's courts of record at Westminster. But this enactment shall not be construed to extend to any fees taken at any general or quarter sessions of the peace, or at any meeting of justices for the purpose of licensing ale-houses, or for the purpose of inquiring into the legal settlement of any person applying for parochial relief, and making suspended orders of removal, or to any fees taken at any special or petty sessions of the justices, in respect of business which must be transacted at such special or petty sessions, or to any fees taken by any vestry clerk, or by the clerk to the overseers of any parish, for the purpose of enforcing the payment of any rates or taxes arising within the same parish.

2. *Of the Receiver and other Officers.*

By *sect. 7*, the Receiver of the metropolitan police district is to be Receiver of the said courts, and to receive all fees, penalties, and forfeitures, and other monies applicable to the purposes of the act, and to pay quarterly the salaries, expenses and charges attending the courts, and to make all necessary contracts and disbursements for carrying the act into execution.

By *sect. 8*, all the provisions and enactments contained in the 10 Geo. 4, c. 44, are to extend to the Receiver, in respect of all monies received by him under this act.

By *sect. 9*, the Receiver is to pay quarterly out of the monies in his hands the salaries of the magistrates, clerks, and other officers.

By *sect. 5*, the Secretary of State is to fix the number of clerks, ushers, door-keepers, and messengers to each court, whom he may appoint and dismiss at pleasure. No person shall be appointed chief clerk in any of the courts, unless he shall be an attorney of one of the courts at Westminster, or have served as clerk in one of the police courts, or as clerk to the justices of any division or petty session within the metropolitan police district, at least seven years; and no such clerk is capable of holding or having any other office or employment, except any to which he has been appointed previously to the act, with the sanction of the Secretary of State; but (by 3 & 4

Vict. c. 84, s. 7) this restriction is only to apply to the police courts then established. Every usher, door-keeper, and messenger is to be sworn as a constable, but is only empowered to act as such within the police courts and the precincts thereof, unless for the protection of the magistrates or of persons resorting to the court, or in case of being sworn in as special constable in any urgent necessity, in which the services of any one or more of them may be specially required by an order in writing from the Secretary of State.

By *sect. 4*, the magistrates, and the clerks, ushers, door-keepers, and messengers are exempt from serving on juries.

3. *Of the Process and Proceedings.*

Power to remand or release Prisoners on Recognizance.—By *sect. 36*, any one of the magistrates may remand any person for further examination, or may suffer to go at large any person who shall be charged before him with any felony or misdemeanor, upon his personal recognizance (with or without sureties), which shall be conditioned for the appearance of such person before the same, or some other of the said magistrates, for further examination, or to surrender himself to take his trial at the Central Criminal Court, or at a court of general or quarter sessions, at a day and place to be therein mentioned; and the magistrate shall be at liberty, from time to time, to enlarge every such recognizance to such further time as he shall appoint; and every such recognizance, which shall not be enlarged, shall be discharged without fee or reward, when the party shall have appeared according to the condition thereof. Whenever the recognizance is to appear at the Central Criminal Court, or at the quarter sessions, the magistrate must return the depositions taken in the case, and bind over the witnesses to appear and give evidence, in like manner as if he had committed the party to take his trial at such court.

And by 3 & 4 Vict. c. 84, s. 9, whenever any person shall be charged before any police magistrate, or before any two justices at any police court, within the metropolitan police district, with any felony or misdemeanor for which he is liable to be committed to take his trial at the assizes to be holden for any of the counties of *Essex, Hertford, Kent, or Surrey*, the police magistrate, or the justices, if he or they respectively shall think fit, may suffer such person to go at large upon a recognizance conditioned for surrendering himself to take his trial at such assizes, in like manner as such recognizance may be taken for his surrender to take his trial at the Central Crimi-

nal Court; and every such recognizance shall be within all the provisions of the 2 & 3 Vict. c. 71, relating to recognizances for surrendering to be tried at the Central Criminal Court.

Warrants need not be backed.—By 2 & 3 Vict. c. 71, s. 17, every warrant to compel the appearance, or for the apprehension, of any person, issued by any of the said magistrates, in respect of any matter arising within the metropolitan police district, may be served or executed out of such district, by the constable to whom the same shall be directed, and shall have the same force and effect as if the same had been originally issued or subsequently endorsed by a justice having jurisdiction in the place where the same shall be served or executed.

Warrants of County Justices void.—By sect. 18, every summons or warrant, which shall be issued by any justice of the counties of *Middlesex, Surrey, Kent, Essex, or Hertfordshire* respectively, requiring any person residing within the metropolitan police district to appear at any place without such district, to answer any information or complaint touching any matter arising within the said district, shall be utterly void, except for the purpose of enforcing payment of any rates or taxes levied within any parish or place, part only of which is within the metropolitan police district.

Where a party summoned fails to appear.—By sect. 19, upon any information or complaint laid before any police magistrate of any matter, which he is authorized to hear and determine summarily, he may summon the party charged; and if such party shall not appear according to the tenor of the summons, any one of the magistrates, upon proof of the service of the summons, may proceed, in all cases which are not of a criminal nature, if no sufficient cause shall be shown for the non-appearance of the party, to hear and determine the case in the absence of the party; and, in all criminal cases, he shall issue his warrant for apprehending and bringing such party before him, or some other magistrate, in order that the information or complaint may be heard and determined.

Service of Summons.—By sect. 20, every such summons may be served, by delivering a copy of the summons to the party, or to the wife, or servant, or some adult inmate of the family of the party at his usual place of abode, and explaining the purport thereof.

When a Warrant may issue.—But by sect. 21, every magistrate may, without issuing any summons, forthwith issue his warrant for the apprehension of any person charged with any offence cognizable

before him, whenever good grounds for so doing shall be stated on oath before him.

Witnesses.—By *sect. 22*, any magistrate may summon any witness to appear and give evidence before him, upon the matter of any offence with which any person shall be charged, at a time and place appointed for hearing the information or complaint, and by warrant under his hand and seal may require any person to be brought before him, who shall neglect or refuse to appear, proof upon oath being first given of personal service of the summons; and such magistrate may commit any such person, who shall refuse to give evidence, to any house of correction within the district, for any time not exceeding fourteen days, or until such person shall sooner submit himself to be examined; and in case of such submission, the order of the magistrate shall be a sufficient warrant for the discharge of such person.

By *sect. 23*, every person, who, upon any examination upon oath or affirmation before any magistrate, shall wilfully and corruptly give false evidence, or swear or affirm any thing which shall be false, shall be liable to the penalties of wilful and corrupt perjury.

Proceedings may be on Summons or Information.—By *sect. 44*, all offences committed within the limits of the district, which are punishable on summary conviction, may be heard and determined by any of the magistrates sitting at one of the police courts, in a summary way, within six calendar months at the farthest next after the commission of such offence, or within such shorter time as shall be limited by the act specifying the offence, and not afterwards, whether or not any information in writing shall have been exhibited or taken by or before such magistrate; and all such proceedings by summons, without information in writing, shall be as valid and effectual as if an information in writing had been first exhibited in that behalf. But a note or memorandum in writing, according to a form to be approved by the secretary of state, must be made and kept in the court of the substance of every charge for which a summons or warrant shall be issued. The magistrate, also, if he shall think fit, may require an information in writing to be laid in every case in which it shall seem to him to be expedient, before the matter of the complaint or charge shall be brought before him. And if, upon the confession of the party accused, or on the oath of any one or more witnesses, the party accused shall be convicted of having committed the offence charged or complained of, the party so convicted shall pay such penalty as to the magistrate shall seem fit, not more than the greatest

penalty made payable in respect of such offence, together with the costs of conviction.

General Form of Conviction.]—By *sect. 48*, any magistrate, before whom any information shall be laid in writing against any person, or before whom any person shall be convicted in respect of any offence, may cause the information and the conviction to be drawn up according to the forms respectively given in the schedule (B) to the act, or any other forms to the same effect, as the case may require. This enactment, however, is not to invalidate any information or conviction drawn in any other form, which may be more specially suited to the case, or may be provided by law. And in any information and conviction for an offence contrary to any statute, it shall be sufficient if the offence is stated in the words of the statute declaring the offence.

Not void for want of Form.]—By *sect. 49*, no information, conviction, or other proceeding shall be quashed or set aside for want of form, or be removed by *certiorari*. * And by *sect. 51*, when any distress shall be made for any money, to be levied by virtue of the warrant of any of the said magistrates, the distress shall not be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the information, summons, warrant of apprehension, conviction, warrant of distress, or other proceeding relating thereto; nor shall such party be deemed a trespasser from the beginning, on account of any irregularity which shall be afterwards committed by him; but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage by an action on the case.

Costs.]—By *sect. 31*, any magistrate, who shall hear and determine any charge or complaint, whether or not a warrant or summons shall have been issued in consequence of such charge or complaint, may award such costs as to him shall seem meet, to be paid to or by either of the parties to the said charge or complaint.

Mitigation of Penalties.]—By *sect. 35*, where, by any act then in force, or thereafter to be passed, a limited penalty, or term of imprisonment, is imposed on conviction of an offender before a justice or justices of the peace, any one of the said magistrates before whom such conviction shall be had, may reduce or lessen such penalty, or term of imprisonment, in such manner as he may think fit. But no penalty for the infringement of any act, relating to the revenue of

customs, or excise, stamps, or taxes, shall be reduced by any such magistrate below the amount or proportion allowed in that behalf by the act or acts specially relating thereunto, without the consent of the commissioners of those respective boards.

Fees.]—By *sect. 43*, such fees as are contained in the schedule (A) may be taken by any of the said magistrates, or by any justice acting in any of the said courts; and a table of such fees shall be fixed in some conspicuous part of each of the said courts; and any magistrate may refuse to do any act for which any fee shall be demandable, unless such fee shall be first paid. And if any such act shall be done, and the fee due thereon shall not be paid, the magistrate may summon the person from whom such fee shall be due, and make order for payment of the same, with the costs of the proceedings; and, in default of payment, may levy the same, with the costs of the distress, by warrant under his hand.

Recovery of Penalties.]—By *sect. 45*, all penalties, forfeitures, and other sums of money, imposed, awarded, or ordered to be paid by any magistrate, and all sums of money which any person is bound to pay under any recognizance taken before a magistrate and afterwards forfeited, in case of non-payment thereof, may be levied, with the costs, by distress and sale of the goods and chattels of the offender or person liable to pay the same, by warrant under the hand of such magistrate; and the overplus (if any) of the money so raised or recovered, shall be returned, on demand, to the party whose goods and chattels shall have been distrained. In case any such penalty, forfeiture, or sum of money, shall not be forthwith paid, the magistrate may order the party to be detained in safe custody, until return can be conveniently made to such warrant of distress; unless he shall give security, to the satisfaction of the magistrate, for his appearance at such place and time, not being more than seven days from the time of such detention, as shall be appointed for the return of the warrant of distress; and the magistrate is empowered to take such security by way of recognizance, or otherwise. But if, upon the return of such warrant, it shall appear that no sufficient distress could be had, whereupon to levy the said penalty, &c., and the same shall not be forthwith paid; or, in case it shall appear to the satisfaction of the magistrate, upon the confession of the party, or otherwise, that he has not sufficient goods and chattels whereupon such penalty, &c. could be levied, if a warrant of distress should be issued, the magistrate may, by warrant under his hand, commit such party to some

common gaol or house of correction for any time not more than one calendar month, where the sum to be paid shall not exceed 5*l.*—and not more than three calendar months in any case; the imprisonment to cease on payment of the sum due.

Application of Fees and Penalties.—By *sect. 46*, the magistrates at each of the courts shall take care that one of their clerks shall, in books to be provided for that purpose, keep a full, true and particular account of all fees taken and received thereat, together with all penalties and forfeitures which shall have been recovered, levied or received, in pursuance of any adjudication, conviction or order had or made thereat, or any process or warrant issuing therefrom; to which books of account the receiver of the metropolitan police shall have at all times free access. And the magistrates shall, once in every quarter of a year, cause to be delivered to the receiver an account of all such sums received, with all proper vouchers for verifying the same, and shall cause the amount of all such sums to be paid to the receiver, to be applied by him towards the expenses of the said courts; except fines imposed upon drunken persons, or upon constables for misconduct, or for assaults upon police constables, which shall be applied for the benefit of “The Police Superannuation Fund,” and except also fees for the execution of summonses and warrants, which shall be applied towards defraying the charge of the police of the metropolis.

By *sect. 47*, where by any act any penalties or forfeitures, or shares of penalties or forfeitures, are recoverable in a summary manner before any justice of the peace, and the same are payable to her Majesty, or any body corporate, or any person whomsoever, save the informer or the party aggrieved, the same, if recovered before any of the said magistrates, shall be adjudged to be paid to the said receiver for the time being, and not to any other person. But this enactment shall not extend to any penalties or forfeitures recovered under any act relating to the *customs*, or to *trade or navigation*, and sued for by the direction of the commissioners of the *customs*, which shall be paid to such person as the commissioners shall direct.

Appeal.—By *sect. 50*, whenever the sum, or penalty, adjudged to be paid shall be more than 3*l.*, or the penalty shall be imprisonment for any time more than one calendar month, any person who shall think himself aggrieved by the order or conviction may appeal to the next general or quarter sessions of the peace, to be holden for the county in which the cause of complaint shall have arisen; provided

that such person, at the time of the order or conviction, or within forty-eight hours thereafter, shall enter into a recognizance with two sufficient sureties, conditioned personally to appear at the said sessions to try such appeal, and to abide the judgment of the sessions, and to pay such costs as shall be awarded. And the magistrate, by whom such order or conviction shall have been made, may bind over the witnesses who shall have been examined, in sufficient recognizances, to attend and be examined at the hearing of such appeal; and every such witness, on producing a certificate of being so bound under the hand of the magistrate, shall be allowed compensation for his time, trouble, and expenses in attending the appeal; which compensation shall be paid, in the first instance, by the treasurer of the county, in like manner as in cases of misdemeanor under the provisions of the 7 Geo. 4, c. 64. And in case the appeal shall be dismissed, and the order or conviction confirmed, the reasonable expenses of all such witnesses, to be ascertained by the court, shall be repaid to the treasurer of the county by the appellant.

But by *sect. 56*, in any proceedings under any act relating to the *customs, excise, stamps, taxes, or post office*, nothing in the act contained shall extend to prevent any penalties awarded by any one of the said magistrates from being recovered and adjudged to be paid, as if this act had not been passed, or to give any appeal from any conviction, where such appeal is not given by the act specially relating thereunto.

Actions.—By *sect. 52*, no plaintiff shall recover in any action for any irregularity, trespass, or other wrongful proceeding, made or committed in the execution of the act, if tender of sufficient amends shall have been made before such action brought; and in case no tender shall have been made, the defendant may, by leave of the court, at any time before issue joined, pay into court such sum of money as he shall think fit; whereupon such proceeding, order, and adjudication shall be had and made, as in other actions where defendants are allowed to pay money into court.

By *sect. 53*, no action, suit, or information, or any other proceeding of what nature soever, shall be brought, commenced, or prosecuted, against any person for any thing done, or omitted to be done, in pursuance of the act, or in the execution of the powers or authorities under the act, unless twenty days' previous notice in writing shall be given by the plaintiff or prosecutor to the intended defendant, nor unless such action or other proceeding shall be brought or commenced within three calendar months next after the act committed,—or, in case there shall be a continuation of damage, then within three

calendar months next after the doing or committing such damage shall have ceased, or unless such action, suit, or information shall be laid and brought in the county of *Middlesex*; and if the plaintiff shall become nonsuited, or suffer a discontinuance, after the defendant shall have appeared, or if a verdict shall pass against the plaintiff, or if upon demurrer, or otherwise, judgment shall be given against the plaintiff, the defendant shall have his costs, as between attorney and client.

(*Informers.*)

Amends may be awarded against Informers.—By *sect. 32*, where any information or complaint shall be laid before any of the magistrates, and shall not be further prosecuted, or in which, if further prosecuted, it shall appear to the magistrate by whom the case shall be heard, that there was no sufficient ground for making the charge, the magistrate shall have power to award such amends, not more than the sum of 5*l.*, to be paid by the informer to the party complained against, for his loss of time and expenses in the matter, as to the magistrate shall seem fit.

Penalty for compounding Offences.—By *sect. 33*, in case any person shall lodge any information for any offence alleged to have been committed, by which he was not personally aggrieved, and shall afterwards directly or indirectly receive, without the permission of the magistrate, any sum of money or other reward for compounding, delaying, or withdrawing the information, any one of the magistrates may issue his warrant or summons for bringing before him the party charged with the offence of such compounding; and if such offence be proved by the confession of the party, or by the oath of any credible witness, such informer shall be liable to a penalty not more than 10*l.*

Extortion by Threats to inform.—And by 3 & 4 Vict. c. 84, s. 11, any person, who shall obtain any sum of money, or other reward, from any person within the metropolitan police district, by threatening, directly or indirectly, to lodge any information, or make any complaint, before any magistrate, justice or justices, for any misdemeanor, or as an inducement for forbearing to lay such information or make such complaint, is liable, on conviction before one of the police magistrates, or before any two justices of the peace, by the oath of one witness, to a penalty not more than 10*l.*

Power to lessen their Share of any Penalty.—By *sect. 34*, where by any act a moiety or other fixed portion of the penalty is directed

to be paid to the informer, not being the party aggrieved, the magistrate before whom the conviction shall be had may adjudge that no part, or such part only of the penalty as he shall think fit, shall be paid to the informer.

5. *Of Pawnbrokers, and the Possession and Restitution of Stolen Goods.*

Possession of.—By sect. 24, every person, who shall be brought before a magistrate, charged with having in his possession, or conveying in any manner, any thing which may be reasonably suspected of being stolen or unlawfully obtained, and who shall not give an account to the satisfaction of such magistrate how he came by the same, shall be deemed guilty of a misdemeanor, and shall be liable to a penalty of not more than 5*l.*; or, in the discretion of the magistrate, may be imprisoned in any gaol or house of correction, with or without hard labour, for any time not exceeding two calendar months.

Searching for stolen Goods.—By sect. 25, if information shall be given on oath to any magistrate, that there is reasonable cause for suspecting that any thing stolen or unlawfully obtained is concealed or lodged in any dwelling-house, or any other place, the magistrate may, by special warrant under his hand directed to any constable, cause every such dwelling-house or other place to be entered and searched at any time of the day or by night, if power for that purpose be given by such warrant; and the magistrate, if it shall appear to him necessary, may empower such constable, with such assistance as may be found necessary,—the constable having previously made known such his authority,—to use force for the effecting of such entry, whether by breaking open doors, or otherwise; and if, upon search thereupon made, any such thing shall be found, then to convey the same before a magistrate, or to guard the same on the spot, until the offenders are taken before a magistrate, or otherwise dispose thereof in some place of safety; and moreover to take into custody and carry before the magistrate every person found in such house or place, who shall appear to have been privy to the deposit of any such thing, knowing or having reasonable cause to suspect the same to have been stolen, or otherwise unlawfully obtained.

Penalty for Possession of.—By sect. 26, when any person shall be brought before any magistrate, charged with having or conveying any thing stolen or unlawfully obtained, and shall declare that he

received the same from some other person, or that he was employed as a carrier, agent, or servant, to convey the same for some other person, the magistrate may cause every such person, and also (if necessary) any former or pretended purchaser, or other person through whose possession the same shall have passed, to be brought before him and examined, and examine witnesses upon oath touching the same; and if it shall appear to the magistrate, that any person shall have had possession of such thing, and had reasonable cause to believe the same to have been stolen or unlawfully obtained, every such person shall be deemed guilty of a misdemeanor, and to have had possession of such thing at the time and place when and where the same shall have been found or seized; and the possession of a carrier, agent, or servant shall be deemed to be the possession of the person who shall have employed such other person to convey the same (b), and shall be liable to a penalty of not more than 5*l.*; or, in the discretion of the magistrate, may be imprisoned in any gaol or house of correction within the metropolitan police district, with or without hard labour, for any time not exceeding three calendar months.

Pawnbrokers.].—By *sect. 28*, any magistrate may order that any goods unlawfully pawned, pledged, or exchanged, which shall be brought before him, and the ownership of which shall be established to his satisfaction, shall be delivered up to the owner by the party with whom they were so unlawfully pawned, pledged, or exchanged, either without compensation, or with such compensation to the party in question, as the magistrate shall think fit.

When Goods unclaimed.].—By *sect. 30*, when any goods or money charged to be stolen or unlawfully obtained, and of which the owner shall be unknown, shall be ordered by any magistrate to be delivered to the receiver of the metropolitan police force, the receiver may, after the expiration of twelve calendar months, during which no owner shall have appeared to claim the same, sell or dispose of the same for the benefit of the superannuation fund of the police of the metropolis.

Restitution of stolen Goods.].—By *sect. 27*, if any goods shall be stolen or unlawfully obtained from any person, or, being lawfully obtained, shall be unlawfully deposited, pawned, pledged, sold, or exchanged, and complaint shall be made thereof to any of the magis-

(b) It is presumed the act means, that the person employing such other person shall be liable; but the section is rather awkwardly worded for a penal enactment.

trates, and that such goods are in the possession of any broker, dealer in marine stores, or other dealer in second-hand property, or of any person who shall have advanced money upon the credit of such goods, within the metropolitan police district, the magistrate may issue a summons or warrant for the appearance of such broker or dealer, and for the production of the goods, and may order such goods to be delivered up to the owner thereof, either without any payment, or upon payment of such sum and at such a time as the magistrate shall think fit. Every broker or dealer who, being so ordered, shall refuse or neglect to deliver up the goods, or who shall dispose of or make away with the same, after notice that such goods were stolen or unlawfully obtained, shall forfeit to the owner the full value thereof, to be determined by the magistrate. But no such order shall bar the broker or dealer from recovering possession of such goods by suit or action at law from the person into whose possession they may come by virtue of the magistrate's order, so that such action be commenced within six calendar months next after such order shall be made. .

Where the Goods are in Custody of the Constable.—By sect. 29, if any goods, or money, charged to be stolen or fraudulently obtained, shall be in the custody of any constable by virtue of any warrant of a justice, or in prosecution of any charge of felony or misdemeanor in regard to the obtaining thereof, and the person charged with stealing or obtaining possession as aforesaid shall not be found, or shall have been summarily convicted or discharged, or shall have been tried and acquitted; or if such person shall have been tried and found guilty, but the property so in custody shall not have been included in any indictment upon which he shall have been found guilty; any magistrate may make an order for the delivery of such goods or money to the party who shall appear to be rightful owner thereof; or, in case the owner cannot be ascertained, then he may make such order with respect to such goods and money, as to him shall seem meet; provided always that no such order shall be any bar to the right of any person to sue the party, to whom such goods or money shall be delivered, and to recover the same from him, by action at law, so that such action be commenced within six calendar months next after such order shall be made.

6. *Unlawful Detention of Goods.*

By sect. 40, upon complaint made to any magistrate by any person claiming to be entitled to the property or possession of any goods,

which are detained by any other person within the limits of the metropolitan police district, the value of which shall not be greater than 15*l.*, and not being deeds, muniments or papers relating to any property of greater value than 15*l.*, the magistrate may summon the person complained of, and inquire into the title thereto, or to the possession thereof; and if it shall appear to him that such goods have been detained without just cause, after due notice of the claim made by the person complaining, or that the person detaining such goods has a lien or right to detain the same by way of security for the payment of money, or the performance of any act by the owner thereof, the magistrate may order the goods to be delivered to the owner thereof, either absolutely, or upon tender of the amount appearing to be due by such owner, (which amount the magistrate is authorized to determine,) or upon performance, or upon tender and refusal of the performance of the act, for the performance whereof such goods are detained as security; or if such act cannot be performed, then upon tender of amends for non-performance thereof; the nature or amount of which amends the magistrate is also authorized to determine. And every person who shall neglect or refuse to deliver up the goods, according to such order, shall forfeit to the party aggrieved the full value of such goods, not greater than the sum of 15*l.*; such value to be determined by the magistrate. But no such order shall bar any person from recovering possession of the goods or money so delivered or forfeited, by suit or action at law, from the person to whose possession such goods or money shall come by virtue of such order; so that such action be commenced within six calendar months next after such order shall be made.

7. *Wages of Bargemen, Sailors, &c.*

By *sect. 37*, all differences, complaints and disputes which shall happen between any bargemen, lightermen, watermen, ballastmen (except Trinity ballastmen), coalwhippers, coal porters, sailors, lumpers, riggers, shipwrights, caulkers, or other labourers who work for hire in or upon the river Thames, or the docks, creeks, wharfs, quays, or places adjacent, not being in the city of London or the liberties thereof, and the owners, masters or commanders of vessels, or their agents, on the said river or the docks and creeks thereunto adjoining, or the owners, wharfingers or occupiers of such wharfs or quays, or their agents, or other employers, respecting wages or money due to such labourers for work or loss of time, whether the same persons be employed for any certain time, or in any other manner, may be heard.

and determined by any one of the police magistrates, who is empowered to examine upon oath any such labourer, or any other witness, or witnesses, touching any such complaint or dispute, and to make such order for payment of so much wages or money to such labourer as to the magistrate shall seem just; provided that the sum ordered do not exceed 5*l.*, besides all reasonable costs attending the prosecution of the complaint.

8. *Landlord and Tenant.*

Compensation for Damage done by Tenants.]—By *sect. 38*, every person who shall occupy, or shall have occupied, any house or lodging as tenant thereof, and who shall wilfully or maliciously do any damage to the premises, or to any furniture thereof, not being the property of such tenant or occupier, shall, upon complaint made to one of the said magistrates within one calendar month next after the commission of the offence or the end of the tenancy or occupation, forfeit and pay such sum of money as shall appear to the magistrate to be a reasonable compensation for the damage done, not more than the sum of 15*l.*, to be paid to the landlord or party aggrieved.

Unlawful Distresses.]—By *sect. 39*, on complaint made to any magistrate by any person who shall have occupied any house or lodging by the week or month, or whereof the rent does not exceed the rate of 15*l.* by the year, that his goods have been taken from him by an unlawful distress, or that the landlord, or his broker or agent, has been guilty of any irregularity or excess in respect of such distress, the magistrate may summon the party complained against; and if, upon the hearing of the matter, it shall appear to the magistrate that such distress was improperly taken or unfairly disposed of, or that the charges made by the party having distrained, or having attempted to distrain, are contrary to law, or that the proceeds of the sale of such distress have not been duly accounted for to the owner thereof, the magistrate may order the distress so taken, if not sold, to be returned to the tenant, on payment of the rent which shall appear to be due, at such time as the magistrate shall appoint; or if the distress shall have been sold, then he may order payment to the tenant of the value thereof, deducting thereout the rent which shall so appear to be due; such value to be determined by the magistrate; and the landlord or party complained against, in default of compliance with any such order, shall forfeit to the party aggrieved the value of such distress, not being greater than 15*l.*; such value to be also determined by the magistrate.

Giving Landlord Possession of deserted Premises.—By 3 & 4 Vict. c. 84, s. 13, none of the police magistrates within the metropolitan police district shall be required to go upon any deserted lands, tenements or hereditaments, for the purpose of viewing the same or affixing any notices thereon, or of putting the landlord into the possession thereof, under the provisions of the 11 Geo. 2; c. 19, s. 46 (a); but, in every case where two justices are authorized to put the landlord into the possession of such deserted premises, one of the police magistrates, upon the request of the landlord, or his bailiff or receiver, made in open court, and upon proof given to the satisfaction of such magistrate of the arrear of rent and desertion of the premises by the tenant, may issue his warrant, directed to one of the constables of the metropolitan police force, requiring him to go upon and view the premises, and to affix thereon the proper notice required by the 11 Geo. 2, c. 19, to be affixed by two justices of the peace; and upon the return of the warrant, and upon proof being given to the satisfaction of the magistrate before whom the warrant shall be returned that it has been duly executed, and that neither the tenant nor any person on his behalf has appeared and paid the rent in arrear, and that there is not sufficient distress upon the premises, the magistrate may issue his warrant to a police constable, requiring him to put the landlord into the possession of the premises. The constable is required duly to execute and return the warrant, subject to the provisions contained in the 2 & 3 Vict. c. 47, as to the execution of warrants directed to constables of the metropolitan police force; and upon the execution of such second warrant, the lease of the premises to such tenant, as to any demise contained therein, shall thenceforth be void.

9. *Dirty and unwholesome Houses.*

By 2 & 3 Vict. c. 71, s. 41, if the guardians of the poor of any union or parish, or the churchwardens and overseers, together with the medical officer for any such parish or union, shall be of opinion and shall certify under the hands of two or more of such guardians, churchwardens or overseers, and also of such medical officer, that any house, or part of any house, within such union or parish, is in such filthy or unwholesome condition that the health of the inmates or of the public is thereby affected or endangered, any magistrate acting within the district in which such union or parish is situate, if he should think fit, may cause notice to be fixed on the door or other conspicuous part of such house, requiring the occupier to appear before him to answer

(a) See *ante*, *Landlord and Tenant*, p. 517.

such complaint, or to cause the same to be cleansed, within seven days from the date of affixing such notice; and if within that time such house, or such part thereof, shall not be cleansed to the satisfaction of such medical officer, and if such occupier, being duly summoned, shall not appear before the magistrate and shew sufficient cause to the contrary, the magistrate, on proof thereof, may issue an order under his hand and seal to the guardians of the poor or the churchwardens and overseers, to cause such house or part thereof to be cleansed, at the expense of the occupier, and may cause the amount thereof to be levied, in case of non-payment, by a warrant of distress and sale under the hand and seal of such magistrate.

By *sect. 55*, this act, and the 10 Geo. 4, c. 44, for improving the police in and near the metropolis, and also the 2 & 3 Vict. c. 37, for further improving the police, shall be construed together as one act.

10. *Weights and Measures.*

By 3 & 4 Vict. c. 84, s. 12, an appeal is given from the lect jury to any one of the police magistrates, with respect to examining or regulating, seizing, breaking, or destroying any weights, balances, or measures (*c*).

SCHEDULES referred to by the 2 & 3 Vict. c. 71.

SCHEDULE (A.)

Table of Fees.

	£	s.	d.
For every summons	0	2	0
For every warrant (except warrants of distress)	0	2	0
For backing a warrant	0	1	0
For every recognizance to appear before a magistrate, or to take trial ..	0	2	6
For every recognizance to keep the peace, or to be of good behaviour ..	0	2	0
For every supersedeas	0	3	0
For every warrant of distress	0	3	0
For every declaration, except those relating to lost duplicates of articles under sect. 20, and except those made for the use of public officers or departments, or for charitable purposes	0	1	0

SCHEDULE (B.)

Form of Information.

Metropolitan Police District, } Be it remembered, that A. B. of —, in the county
to wit. } of —, cometh on the — day of —, in the year
of our Lord —, before me J.P., one of the magistrates of the police courts of the
metropolis, sitting at the police court at —, within the metropolitan police district,

and giveth me to understand and be informed, that C. D. hath been guilty of [*here describe the offence.*]

Form of Conviction.

Metropolitan Police District, } Be it remembered, that on the — day of —, in
to wit } the year of our Lord —, C. D. is brought before
me J. P., one of the police magistrates of the metropolis, sitting at the police court in
—, within the metropolitan police district —, and is charged before me with
having [*here describe the offence*]; and it appearing to me, upon the confession of the
said C. D. [*or, "upon the oath of a credible witness," as the case may be*] that the said
C. D. is guilty of the said offence, I do therefore adjudge the said C. D. [*insert the
adjudication.*]. Given under my hand the day and year first above written.

By 3 & 4 Vict. c. 84, s. 8, when the information is laid, or the conviction had before two justices, the following forms, given in the schedule annexed to that act, may be used instead of the forms of the information and conviction provided by the 2 & 3 Vict. c. 71:—

1. Form of Information.

Metropolitan Police District, } Be it remembered, that A. B., of —, in the — of
to wit } —, cometh on the — day of —, in the year of
our Lord —, before us, J. P. and K. J., two of her Majesty's justices of the peace
for the — of —, sitting at the police court [*or "at the petty sessions court," as
the case may be*], at —, within the metropolitan police district, and giveth us to
understand and be informed that C. D. hath been guilty of [*here describe the offence.*]

2. Form of Conviction.

Metropolitan Police District, } Be it remembered, that on the — day of —, in
to wit } the year of our Lord —, C. D. is brought before
us J. P. and K. J., two of her Majesty's justices of the peace for the — of —,
sitting at the police court [*or "at the petty sessions court," as the case may be*], at —,
within the metropolitan police district, and is charged before us with having [*here
describe the offence*]; and it appearing to us, on the confession of the said C. D. [*or
"upon the oath of a credible witness," as the case may be*], that the said C. D. is guilty
of the said offence, we do hereby adjudge the said C. D. [*here insert the adjudication.*]
Given under our hands on the day and year first above mentioned.

Military Law—See Soldiers.

Military Stores—See Stores of War.

Military Training.

By 60 Geo. 3, c. 1, s. 1, all meetings and assemblies of persons, for the purpose of training or drilling themselves, or of being trained or

drilled, to the use of arms, or for the purpose of practising military exercise, movements, or evolutions, are prohibited. And every person who shall be present at or attend any such meeting, for the purpose of training others, or who shall aid or assist therein, is liable to *Transportation for seven years, or imprisonment not exceeding two years*. Every person, who shall attend for the purpose of being trained or drilled, is also punishable by *Fine and imprisonment not exceeding two years*.

By *sect. 2*, any justice, or any constable or peace officer, or any other person acting in their aid or assistance; may disperse any such unlawful meeting or assembly, and may arrest and detain any person present at, or aiding, assisting, or abetting any such assembly or meeting. The justice, before whom any person so arrested shall be brought, may commit him for trial, unless he gives sufficient bail for his appearance at the next assizes or quarter sessions.

Militia.

SINCE the passing of the statute 10 Geo. 4, c. 10, there have been annual acts passed for suspending the ballot for the militia, until the end of the then next session of parliament; but they all contain a provision enabling the Sovereign, by an order in council, to direct that the ballot shall be resumed before the expiration of that period. The last of these acts is the 4 & 5 Vict. c. 23, which suspends the ballot and enrolment until the 31st August, 1842. And the 3 & 4 Vict. c. 70 relates to the pay and allowances of the disembodied militia. In case of any order of council being issued, or the suspension acts not being continued, the following provisions of the law will be found material to the duties of a justice of the peace.

1. Issuing Precepts to return Lists..	600	Volunteers.....	603
2. Swearing in and enrolling, and herein of Substitutes.....	601	4. Training and Exercise	604
3. Enlisting, and beating up for Vo-		5. Recovery and Application of Pe-	
		nalties	610

1. Issuing Precepts to return Lists.

Penalty for neglect of Householders.—By 42 Geo. 3, c. 90, s. 26, the chief constables (*d*) of the several hundreds, &c. are required to

(*d*) By 3 & 4 Vict. c. 84, s. 10, all proceedings within the metropolitan police district, relating to the service of notices, and the procuring and making out the returns of the persons liable to serve in the militia, and the preparing and making out

of the lists of the persons liable to be balloted, and all other things by the above act directed to be done by the high and other constables, are directed to be done by the constables of the metropolitan police force.

give notice to the occupier of every dwelling-house to prepare within fourteen days a list in writing of the christian and surname of every man resident therein, between the ages of eighteen and forty-five, distinguishing every person claiming to be exempt from serving, together with the ground of such claim; and if any occupier shall neglect to make out, sign, and deliver such list within such time, or omit any person who ought to have been included, or knowingly make any false return, he shall for every such offence forfeit not exceeding 5*l*.

And by *sect. 31*, if any person refuse to tell the christian and surname of himself, or of any man lodging or residing within his house, or shall tell a false name to any constable, or other officer, he shall forfeit 10*l*.

Fraudulent Apprenticeships.—By *sect. 49*, if two or more deputy-lieutenants, at any subdivision meeting, shall receive information, or suspect, that any person inserted in any list and described as an apprentice has been fraudulently bound, in order to avoid serving, they may inquire into such binding, and summon witnesses, and examine them on oath; and if such fraud shall appear, they may appoint such person so bound apprentice to serve in the militia of the place for which such list was returned, if there be a vacancy; if not, then on the first vacancy that shall happen; and the person to whom such apprentice shall be so bound shall forfeit 10*l*.

Appeals.—By *sect. 29*, if any person, whose name shall be inserted in any list, shall think himself aggrieved, he may appeal to the subdivision meetings. And any two deputy lieutenants may hear and determine the same, whose determination shall be final.

Neglecting to appeal.—By 43 Geo. 3, c. 50, s. 13, on the making out or amending of any lists of persons liable to serve, every person, who shall wilfully neglect to appeal at the time appointed for that purpose, shall forfeit not exceeding 20*s*., nor less than 5*s*., at the discretion of any two deputy lieutenants or justices, and on non-payment thereof be imprisoned at their discretion for any time not exceeding one week.

2. *Swearing and enrolling: and herein of Substitutes.*

Persons refusing to be examined.—By 43 Geo. 3, c. 50, s. 14, if any person, whose name shall be inserted in any list made and amended, and whose name shall be drawn upon the ballot, shall refuse, when required by any two deputy lieutenants or magistrates, to

be examined as to his fitness to serve, he may at their discretion be imprisoned not exceeding one week.

Neglect of Clerks of Meetings.—By 42 Geo. 3, c. 90, s. 36, the clerks of all subdivision meetings shall, within fourteen days after such meeting, transmit to the clerk of the general meetings of the county, fair and true copies of such rolls as shall be signed at such subdivision meeting; and, upon neglect to make such return, or wilfully making a false return, he shall forfeit 20*l*.

Balloted Man not appearing.—By sect. 45, if any person chosen by ballot (not being a quaker) shall neglect to appear and be sworn, or to provide a proper substitute, he shall forfeit 10*l*., and at the expiration of five years be again liable to serve, or provide a substitute. In default of payment of such penalty, or of sufficient effects whereon to levy the same, the name of such person shall be entered on the roll, and he shall be delivered over to some proper officer of the regiment for which he was balloted, and shall be compelled to serve for such term, to be computed from the time of his being apprehended, and shall be subject to the same punishments for afterwards absconding or deserting, as he would have been if he had appeared and been duly sworn and enrolled.

When a Quaker balloted.—By sect. 50, if any quaker shall be balloted, and shall refuse to serve, or to provide a substitute, two deputy lieutenants may, upon reasonable terms, provide a fit person to serve as his substitute, who shall, after examination and approval, take the oath and be enrolled as other substitutes; and two deputy lieutenants may levy by distress and sale of the goods of such quaker such sum as shall be necessary to defray the expense of providing such substitute; and if sufficient distress cannot be found, and it shall nevertheless appear satisfactorily to them, that such quaker is of sufficient ability to pay the sum of 10*l*., they may commit him to the common gaol for three months, or until he shall have paid such sum of money as they shall have agreed to pay for such substitute. If any measures shall be used in making such distress which may be thought oppressive, the quaker may complain to the deputy lieutenants at their next meeting.

Substitutes not appearing to be sworn.—By 42 Geo. 3, c. 90, s. 62, if any person shall receive any money to serve as a substitute, or from any churchwarden or overseer to serve as a volunteer, and shall neglect to appear at the usual meeting appointed for swearing the

militia-men, or before some one deputy lieutenant, he shall, on conviction before any deputy lieutenant or justice, be obliged to return the money to the person from whom he received it; and shall also forfeit and pay to such person not exceeding 40s., nor less than 20s., and in default of payment be committed to the common gaol or house of correction for fourteen days, or until the said sum shall be returned.

Payment of Bounties to Substitutes.—By sect. 63, when any balloted man shall have engaged any person to serve as his substitute, or any churchwardens or overseers shall have engaged any person to serve as a volunteer, and shall have agreed to pay the person so engaged a certain sum; two deputy lieutenants, or one justice, may order such sum to be paid to such substitute or volunteer after examination and enrolment, where the militia is not embodied. And in all cases where the militia shall be embodied, such deputy lieutenants or justice may direct any sum, not exceeding one half of the money agreed to be given, to be paid to him forthwith, or to be advanced to him, or to such of his family, and in such proportions, as he shall request at the time of enrolment, and the remaining half to be paid to the clerk of the subdivision meeting; who is required to remit the same to the paymaster or battalion clerk, by whom it is to be paid to such substitute or volunteer, on his joining the regiment and being approved as a fit man. In case he shall not join or be approved of, such money shall remain in the hands of the paymaster, to be applied to the payment of some other substitute or volunteer, and the payment may be enforced in the same manner as is directed by the 20 Geo. 2, c. 19 for recovering servants' wages, and every subdivision clerk, who shall fail to remit such money within one week after it shall have been so paid to him as aforesaid, shall forfeit 20l.

3. *Enlisting, and beating up for Volunteers.*

Enlisting in the Regulars.—By 42 Geo. 3, c. 90, s. 64, if any officer, serjeant, or other person, shall wilfully and knowingly enlist any man to serve in his Majesty's other forces, who at the time of such enlisting shall be enrolled or engaged to serve in the militia, every such enlisting shall be null and void. And if any militia-man, at the time of offering to enlist, shall deny to such person recruiting, that he is then actually enrolled and engaged to serve in the militia, or shall offer himself to be enrolled and serve in any other regiment of militia, he shall, on conviction upon the oath of one witness before

one justice, be committed to the common gaol or house of correction not exceeding six months, over and above any penalty or punishment to which he shall be otherwise liable; and from the day on which his engagement to serve in the militia shall end, and not sooner, he shall belong as a soldier to the corps in which he shall have been so enlisted. Any officer, or other person, knowingly so enlisting any such man, or not asking him if he belong to the militia, shall forfeit for every such offence 20*l*. And if any person serving in any of his Majesty's other forces shall offer himself to serve and be enrolled as a substitute in the militia, he shall forfeit 10*l*. to the informer, or be committed to the common gaol or house of correction not exceeding three months.

Beating up for Volunteers.—By sect. 65, any person giving orders to any serjeant, drummer, or other person serving in the militia, to beat up in any city, town, or place for volunteers to serve in the militia, shall, on proof thereof upon oath before one justice, forfeit 20*l*., one moiety to the informer. And if such serjeant, drummer, or other person shall refuse to declare upon oath before such justice, from whom he received such orders, the justice shall commit him to the house of correction not exceeding three months.

Enlisting in the East India Company's Forces.—By 57 Geo. 3, c. 57, s. 3, every officer, or other person, who shall wilfully or knowingly enlist any militia-man for the East India Company's service, shall be subject to the penalties imposed by the 42 Geo. 3, c. 90, for enlisting militia-men for his Majesty's other forces. And every militia-man offering to enlist in such service, who shall deny that he is a militia-man, or who shall offer himself to be enrolled, and be enrolled as a militia-man for any other place than that for which he shall be enrolled and serving, although in the same regiment or corps, shall be subject to the provisions in that act contained for the punishment and subsequent service of militia-men offering to enlist in his Majesty's other forces, or to be enrolled and serve in any other regiment of militia.

4. *Training and Exercise.*

Billeting.—By 42 Geo. 3, s. 90, s. 94, all mayors, and other chief magistrates and officers of cities, towns, parishes, tythings, and places, and (in their default or absence) any one justice inhabiting within or near any city or place (but no others), shall quarter and billet the officers, non-commissioned officers, drummers, and private men serv-

ing in the militia, at the time when they shall be called out to annual exercise, in inns, livery stables, alehouses, victualling houses, and all houses of persons selling brandy, strong waters, cyder, wine or me-theglin, by retail, upon application made to any such mayors or officers by his Majesty's lieutenant, or by the colonel or other commanding officer of the militia of the county where they shall be so called out to exercise; and when the militia is not embodied, nor called out to exercise, all mayors and other officers aforesaid, or (in their default or absence) any one justice, shall order and provide convenient lodging, with fire and tandle, in such houses as aforesaid, for the serjeants, corporals, and drummers of the militia.

Providing Carriages.—By sect. 95, when the militia shall be called out to be trained and exercised, any justice of the county, being thereunto required by an order from the lieutenant, or any deputy lieutenant, or from the colonel or other commanding officer of any regiment or division of militia, being within such county, shall issue his warrant to the chief constables of hundreds, or other divisions, or to the constables or other officers of the several parishes or places from, through, near, or to which any such regiment shall be ordered to march, requiring them to provide such sufficient carriages to convey the arms, clothes, accoutrements, ammunition and other stores, with able men to drive, as shall be mentioned in the said order; and in case such sufficient carriages and men cannot be provided within any such county, then any justice for the adjoining county shall, upon such order being shown unto him, issue his warrant in like manner within such adjoining county, to make up such deficiency of carriages and men. The lieutenant, or commanding officer, requiring such carriages and men shall at the same time pay to every such chief constable, or other officer, for the use of the persons who shall provide the same, 1s. for every mile which any wagon with five horses, and any wain with six oxen, or with four oxen and two horses, shall respectively travel; and 9d. for every mile which any such cart with four horses shall travel, and so in proportion for any carriage drawn by any less number of horses or oxen; for which respective sums such chief constable, or other officer receiving the same, is required to give a receipt to the person paying the same; and every such chief constable, or other officer, shall order such persons having carriages, as they shall think proper, to provide and furnish such carriages and men, according to the warrant aforesaid; and every person so ordered is required to provide and furnish

the same accordingly for one day's journey, and no more. And in case any chief constable, or other officer, shall be at any charge for such carriages, over and above the money which shall be so received by them, such overplus shall be borne by every county where such additional expense shall be incurred, and be repaid to them without fee or reward by the treasurer.

Man not appearing to exercise.—By sect. 99, every militia-man (not labouring under any infirmity incapacitating him) who shall not appear at the time and place appointed for his being exercised, (notice having been published and given as required by the act), shall be deemed a deserter, and if not taken until after the time of any such exercise, shall forfeit and pay 20*l.*; and also every militia-man who, having joined the regiment to which he belongs, or any company or division thereof, shall desert or absent himself during the time of any such exercise, and shall not be taken until after the time of such exercise, shall forfeit and pay 20*l.*; and if not immediately paid, the justice shall commit him to the house of correction to hard labour, or to the common gaol, for six months, or until he shall have paid the said penalty.

Recovering Deserters.—By sect. 108, where any militia-man shall not join the regiment to which he belongs at the time of annual exercise, or shall desert during such time, and shall not be apprehended before the expiration thereof; and where the commanding officer, or the adjutant of such regiment, or the commanding officer of the company, detachment or division to which such offender belongs, shall receive information of the place where he shall be, he may, by writing under his hand, describe his person, and also certify that he did not join the regiment at the time of annual exercise, or that he deserted during the time of annual exercise (as the case may be), and send the same by a serjeant, corporal, or drummer of such regiment, to the adjutant or serjeant-major of the regiment, or to the senior serjeant when there is no adjutant or serjeant-major of the corps, of the county or place wherein such offender is supposed to be; and the adjutant, &c. to whom such certificate shall be sent, shall forthwith direct a party of the serjeants, corporals or drummers of the regiment to which he belongs to assist in apprehending such offender, and in conveying him before some justice of the county wherein he shall be apprehended; and if, by his confession, or the testimony of any witness upon oath, or the knowledge of such justice, such person shall be found guilty of such offence, the adjutant, &c.

shall order a party of the serjeants, corporals or drummers under his command, to convey such offender to the head quarters of the regiment of the next county or place in the way to the county or place to which such offender belongs, and deliver him into the custody of the adjutant, &c. who shall cause him to be conveyed in like manner, until such offender shall be delivered into the custody of the adjutant, &c. of the regiment to which he belongs, who shall take him before a justice to be dealt with as directed in such cases; and from the time of his being so apprehended until he be brought before such justice, he shall be subsisted at the rate of sixpence per day from the county stock, for which subsistence the justice is required to make such order upon the treasurer of the county. And if any serjeant, corporal, or drummer shall desert, it shall be lawful for any headborough, constable, or other officer of the town or place where any person who may be reasonably suspected to be such deserter shall be found, to cause such person to be apprehended and taken before any justice living in or near to such town or place, who shall examine such suspected person; and if, by his confession, or the testimony of any witness upon oath, or by the knowledge of such justice, such suspected person shall be found to be a deserter, such justice shall forthwith cause him to be conveyed to the common gaol of the county or place where he shall be found, or the house of correction or other public prison in the town or place in or near to which such deserter shall be apprehended, there to remain until he shall be demanded by some person authorized to receive him, and shall transmit an account thereof to the clerk of the general meetings of the county to which he belongs; and the keeper of such prison shall receive the full subsistence of such deserter at the rate above specified, for his maintenance during the time he shall continue in his custody, but shall not be entitled to any fee or reward on account of his imprisonment. The clerk of the general meetings receiving such account shall immediately transmit a copy thereof to the commanding officer of the regiment of his county, and also to the adjutant or other officer commanding the serjeants, corporals and drummers of such regiment, and where there are more than one regiment in any county or place, such clerk shall send such copy to each of the commandants thereof, and also to each of the adjutants or officers aforesaid, and such commanding officer, adjutant or officer shall, immediately on receiving such copy, send any serjeant, corporal or drummer, or any party of the serjeants, corporals or drummers of his regiment to the place where such deserter shall be so confined, and shall also send an order

under his hand and seal to the keeper of the prison, requiring him to deliver such deserter to the person or persons therein named; and the serjeant, corporal or drummer to whom such deserter shall be so ordered to be delivered, in case only one shall be sent on such duty, shall apply to the adjutant or serjeant-major of the regiment, or to the senior serjeant of the corps of the county or place where such deserter shall be confined; and such adjutant, &c. shall order a sufficient party of serjeants, corporals or drummers under his command to assist in conveying such deserter to the adjutant, &c. of the corps to which he belongs, in the same manner as before directed with respect to the conveying of privates; and such adjutant, &c. shall take such deserter before a justice of the county or place to which he belongs, who shall forthwith cause him to be conveyed to the common gaol, house of correction, or other public prison of such county, until a court martial shall be summoned and held for the trial of such deserter, when he shall be delivered to the person named in any order to be issued for that purpose under the hand and seal of the officer, by whose authority such court martial shall be summoned, requiring the delivery of such deserter; and all gaolers and keepers of prisons shall, (if required so to do by any serjeant, corporal or drummer employed in conveying any such militia-man, or serjeant, corporal or drummer so offending to the regiment to which he belongs) receive into their custody, and confine such offender, for such time as they shall be respectively so required as aforesaid, not exceeding twenty-four hours, and upon refusal so to do, shall forfeit the sum of 20s. And all serjeants, corporals and drummers, while they are employed in executing such duty, and all other serjeants, corporals and drummers, while on any march or employed on any duty upon which they may be commanded by any legal authority, shall be billeted in like manner as serjeants, corporals or drummers belonging to his Majesty's other forces, employed in apprehending and conveying deserters, are to be billeted.

Reward for apprehending Deserters.—By sect. 109, the justice, before whom any deserter shall be convicted, shall issue his warrant to the clerk of the regiment to which such deserter shall belong, or (where there is no clerk) to the commanding officer, requiring such clerk or commanding officer to pay 20s. out of the regimental stock to the person who apprehended such deserter; which such clerk or commanding officer is required to pay accordingly upon demand.

Concealing Deserters.—By sect. 110, if any person shall harbour

or conceal any deserter, knowing him to be a deserter, he shall forfeit 5*l*.

Arms and Accoutrements.

Pawning, or damaging them.—By 42 Geo. 3, c. 90, s. 101, all muskets delivered for the service of the militia shall be marked distinctly in some visible place with the letter M, and the name of the county to which they belong; and in case any militia-man shall sell, pawn, or lose any of his arms, clothes, accoutrements, or ammunition, or neglect or refuse to return the same in good order to his captain, he shall for every such offence forfeit not exceeding 3*l*.; and if he shall not immediately pay such penalty, the justice before whom he shall be convicted shall commit him to the house of correction, to be kept to hard labour not exceeding three months, or until he shall have paid the said penalty.

Buying Arms, &c.—By sect. 102, if any person shall knowingly and wilfully buy, take in exchange, conceal, or otherwise receive any militia arms, clothes, or accoutrements, or any regimental necessities being provided for the soldier and paid for by deductions out of his pay, or any public stores or ammunition whatever delivered for the militia, upon any account or pretence whatsoever, he shall forfeit 10*l*.; and if he shall not immediately pay, and shall not have sufficient goods whereon to levy, such penalty, the justice before whom he shall be convicted shall commit him to the common gaol for six months, or until he shall have paid the said fine, or shall cause such offender to be publicly or privately whipped.

When drawn out into actual Service.

*Allowance to balloted Men, when not worth 500*l*.*—By 42 Geo. 3, c. 90, s. 122, in case any person not possessed of any estate of the clear value of 500*l*., and who shall make oath that he is not so possessed, shall be chosen by ballot to serve in the militia for any parish,—where the militia is drawn or ordered out for actual service, and such person shall be approved, &c., the churchwardens or overseers of such parish shall, on receiving an order under the hands of two deputy lieutenants, pay to such person so chosen any sum not exceeding the sum which such deputy lieutenants shall adjudge to be, as near as may be, one half of the current price then paid for a volunteer or substitute in the county where such person was so chosen. And in case any churchwarden or overseer shall neglect to pay such money upon demand and production of such order, he shall forfeit

10*l.*, one half to the person so chosen by ballot, in lieu or in part of the sum ordered to be paid him as aforesaid. But if any man so chosen by ballot and serving for himself shall, within one month after his enrolment, be disapproved of and discharged by the commanding officer, such sum shall not be paid to him, but shall be paid to the next person chosen by ballot in his stead: and if any substitute be disapproved and discharged, then no such sum shall be paid to the man so chosen by ballot, unless he shall serve himself, or shall find another substitute who shall be approved by the commanding officer.

Not appearing when embodied.—By *sect.* 131, if any militia-man, not labouring under any infirmity incapacitating him for service, shall not appear in pursuance of the orders, or appearing shall not abide the orders, of the deputy lieutenants, he shall be deemed a deserter; and if not taken previously to the completion of the ballot at which he ought to attend, he shall forfeit 10*l.*, and be liable to be embodied.

5. *Recovery and Application of Penalties.*

By *sect.* 176, all fines, penalties, and forfeitures not exceeding 20*l.*, shall, upon proof on oath before one justice, be levied by distress, and for want of sufficient distress, where no particular time of commitment is directed, the justice may commit the offender not exceeding three months: and the money arising from such fines, if not otherwise directed, shall be paid to the clerk, or (where there is no clerk) to the commanding officer, of the regiment, and shall be part of the public stock.

By *sect.* 177, no order or conviction shall be removed by *certiorari*.

Mill—For regulations as to persons employed in *Cotton Mills*, &c. see *ante*, **Factories**.

Millers.

And see **Brad**.

PENALTY for false *Weights*, &c.]—By 36 Geo. 3, c. 85, s. 1, every miller, or other person keeping a mill for the grinding of corn; shall have in such mill a true and equal balance with proper weights, according to the standard of the exchequer; and any person appointed

under the 35 Geo. 3, c. 102 (e), is authorized to examine such balance and weights, and to proceed with respect to them in the same manner as is provided in that act with respect to weights and measures. And every miller, or other person, in whose mill shall be found no balance or weights, shall forfeit not exceeding 20s.; and in whose mill shall be found any weight not being according to the standard in the exchequer, or any false or unequal balance, and all persons obstructing such person in viewing and examining the same, are liable to the like penalties as any person committing the like offence against the provisions of the 35 Geo. 3, c. 102: namely, for any false weight not exceeding 20s., nor less than 5s.; and for any obstruction not exceeding 40s., nor less than 5s.; to be paid to the treasurer of the county in aid of the county rate.

Penalty for not weighing Corn.—By sect. 2, every person, who shall bring corn to any mill to be ground, may require the miller, or other person acting for him or keeping the mill, to weigh in his presence such corn, before it shall be ground; and, after it shall be ground, may require the miller, or other person, to weigh in his presence the produce of the corn so ground; and if any miller, or other person, shall refuse to do so, he is liable to forfeit not exceeding 40s.

Penalty for deficiency in Weight.—By sect. 3, every miller, after grinding any corn, must deliver to the person who brought it, if so required, the whole produce of such corn in weight, allowing for the diminution in weight that shall have been caused by the waste in grinding, and by taking toll, in cases where toll is allowed to be taken; and if such corn shall be dressed into flour, then allowing for the diminution in weight by the waste in grinding and dressing, and by taking toll. And if such corn shall appear to weigh less than the full weight, after making allowance, the miller is liable to a penalty not exceeding 1s. for every bushel so deficient, and also treble the value of such deficiency.

Not to take Toll.—By sect. 5, no miller shall demand or take any part of the corn brought to be ground, or of the produce of such corn

(e) By the 5 Geo. 4, c. 74, s. 23, so much of the 35 Geo. 3, c. 102, is repealed, as related to the ascertainment of any weights and measures; but by sect. 21, all the powers contained in it are directed to be applied, for the examining, and for the

seizing, breaking, and destroying of any weights and measures not conformable to those authorized by the new act of 5 Geo. 4, and for the punishment of any person having any defective weight or measure not conformable to the new standard.

when ground, by way of toll for payment; but only payment in money; under a penalty not exceeding 5*l*. But this provision is not to extend to mills, where a right to take toll has been established by custom and law.

Must put up a Table of Prices.—By sect. 6, every miller, or other person who shall grind for hire or toll, is required to put up in some conspicuous place in his mill, and renew when necessary, in fair and legible characters, a table of the prices in money, or of the amount of toll or multure, for which the several operations of his mill are to be performed respectively; under a penalty not exceeding 20*s*.

Recovery of Penalties.—By sect. 8, all penalties are recoverable before one justice on the oath of one witness. Distress; in default of which commitment not exceeding one month, but an appeal is given to the next quarter sessions. Half the penalty to go to the informer, and half to the poor of the parish. No conviction removable by *certiorari*.

Limitation of Prosecutions.—By sect. 9, any information must be laid before the justice, within ten days after the offence has been committed.

By sect. 10 a general form of conviction is given.

Mill-pond.

BY 7 & 8 Geo. 4, c. 30, s. 15, any person, who shall unlawfully and maliciously break down, or otherwise destroy the dam of any mill-pond, is declared to be guilty of a *Misdemeanor*; *Transportation for seven years*; or *imprisonment not exceeding two, with or without whipping*.

Mines.

FOR setting coal-mines on fire, see *Arson*.

For riotously demolishing the machinery or buildings belonging to mines, see *Riot*.

For offences committed by workmen employed in mines, see *Servants*.

Drowning them.—By 7 & 8 Geo. 4, c. 30, s. 6, if any person shall unlawfully and maliciously cause any water to be conveyed into any mine, or any subterraneous passage communicating therewith,

with intent thereby to destroy or damage such mine, or to hinder or delay the working thereof; or shall with the like intent pull down, fill up, or obstruct any air-way, water-way, drain, pit, level, or shaft of any mine; *Felony; Transportation for seven years; or imprisonment not exceeding two, with or without whipping, by sect. 27.*

Destroying or damaging the Machinery.—By *sect. 7*, if any one shall pull down, or destroy, or damage with intent to destroy or render useless, any steam-engine, or other engine for sinking, draining, or working any mine, or any staith, building, or erection used in conducting the business of the mine, or any bridge, waggon-way, or trunk for conveying minerals from the mine, whether such engine, &c. be completed, or in an unfinished state; *Felony, punishable as above.*

Stealing from them.—By *7 & 8 Geo. 4, c. 29, s. 37*, if any person shall steal, or sever with intent to steal, the ore of any metal, or any *lapis calaminaris*, manganese, or mundick, or any wad, black cawke, or black lead, or any coal, or cannel coal, from any mine, bed, or vein thereof respectively; *Felony; Transportation for seven years; or imprisonment not exceeding two, with or without whipping and hard labour.*

Mischief, Malicious.

BY *7 & 8 Geo. 4, c. 30, s. 24*, if any person shall wilfully or maliciously commit any damage, injury, or spoil, to or upon any real or personal property whatsoever, either of a public or private nature, for which no remedy or punishment is before provided by the act,—the offender, on conviction before *one justice*, shall pay such sum as shall appear to him a reasonable compensation for the damage committed, not exceeding *5*l.**; which sum shall, in the case of private property, be paid to the party aggrieved, except where he shall have been examined in proof of the offence; and in such case, or in the case of property of a public nature, or wherein any public right is concerned, the money shall be applied in such manner as directed by the *32nd* section of the act,—that is, to be paid to some one of the overseers of the poor, to be by him paid over to the use of the county rate. But nothing contained in the above enactment is to extend to any case, where the party trespassing acted under a fair and reasonable supposition that he had a right to do the act complained of, nor to any trespass, not being wilful and malicious, committed in hunting, fish-

ing, or in the pursuit of game; but every such trespass shall be punishable in the same manner as before the passing of the act.

The proviso in the above section, exempting from the penalty any person acting under a reasonable supposition of right, does not oblige justices to dismiss a charge made under that section, upon the mere statement of the accused party that he so acted; but, in default of proof by him, they may judge, from all the circumstances, whether or not the party did so act (*f*). And it is no proof of a *bonâ fide* claim subsisting, that several other parties have committed similar trespasses, using the same colour of right, and that the complainant has obtained an injunction from the Court of Chancery against such parties (*g*). To bring a case within the above enactment, there must be proof of *actual damage* having been done; and the mere fact of a man's treading down the grass by walking in a field out of the path is not sufficient (*h*).

As to Proof of Malice against the Owner.—By *sect. 25*, every punishment and forfeiture, imposed on any person maliciously committing an offence, shall be enforced, whether the offence shall be committed from malice conceived against the owner of the property, or otherwise.

Apprehension of Offenders.—By *sect. 28*, any person found committing an offence against the act may be immediately apprehended, without a warrant, by any peace officer, or the owner of the property injured, or by his servant, or any person authorized by him, and be forthwith taken before a justice.

Limitation of Prosecutions.—By *sect. 29*, prosecutions must be commenced within three calendar months after the commission of the offence; and the party aggrieved, and any inhabitant of the county are competent witnesses.

Process.—By *sect. 30*, the justice may issue either a summons, or a warrant, in the first instance, to compel the attendance of any party.

Aiders.—By *sect. 31*, any person, who shall aid, abet, counsel, or procure the commission of any offence, is liable to be punished in the same manner as a principal offender.

Application of Forfeitures.—By *sect. 32*, every forfeiture shall

(*f*) *Reg. v. Dodson*, 9 Ad. & E. 704.
(*g*) *Ibid.*

(*h*) *Butler v. Turley*, 2 C. & P. 585;
Dewey v. White, M. & M. 56.

be paid to the party aggrieved, if known, except he is examined in proof of the offence; and in that case, or where the party aggrieved is unknown, such sum shall be applied in the same manner as a penalty, namely, to one of the overseers of the parish, to be by him paid over to the county rate. And where several persons join in the commission of an offence, and are each adjudged to forfeit a sum equivalent to the amount of the injury done, in that case, no further sum is payable to the party grieved than that forfeited by one of the offenders; and the sums forfeited by the others shall be applied in the manner before mentioned.

Commitment in default.]—By *sect. 33*, where the forfeiture shall not be paid by the party convicted, the justice may commit him, with or without hard labour, not exceeding two calendar months, where the amount of the sum forfeited and the costs shall not exceed 5*l.*; not exceeding four calendar months, where the amount shall not exceed 10*l.*; and not exceeding six calendar months in any other case.

By *sect. 36*, a summary conviction is a bar to any other mode of proceeding; and (by *sect. 37*) a general form of conviction is given.

Appeal, &c.]—By *sect. 38*, where the conviction is for a sum above 5*l.*, or the imprisonment shall exceed one calendar month, or the conviction is before one justice only, an appeal is given to the next sessions holden not less than twelve days after the conviction, upon giving the complainant notice in writing within three days after conviction, and seven clear days before the sessions, and provided the party either remains in custody until the sessions, or enters into a recognizance with two sufficient sureties to appear and try the appeal.

By *sect. 39*, no conviction shall be quashed for want of form, or be removed by *certiorari*, and no warrant of commitment shall be void for any defect, provided it be alleged that the party has been convicted, and there be a good and valid conviction.

Note.—The above are the provisions of the statute, applicable to injuries committed on any species of property in general; but for injury or damage committed on particular descriptions of property, such as *manufactories, trees, gardens, &c.*, see those respective titles in the digest.

The following Form of Conviction is prescribed by Sect. 37.

Kent, } Be it remembered, that on the — day of —, in the year of our Lord
to wit. } —, at — in the county of —, [or “riding,” “division,” “liberty,”
“city,” &c., as the case may be,] A. O. is convicted before me J. P., esquire, one of
her Majesty’s justices of the peace in and for the said county, for that he the said

A. O., on &c., at &c., did wilfully and maliciously damage, injure, and spoil [*here specify the offence*], against the form of the statute in such case made and provided : Wherefore I, the said J. P., do adjudge the said A. O. for his said offence to forfeit and pay the sum of £ —, as a reasonable compensation for the damage so committed by the said A. O. as aforesaid, and also to pay the sum of — for costs ; and, in default of immediate payment of the said sums, to be imprisoned in the —, and there kept to hard labour for the space of —, unless the said sums shall be sooner paid ; and I direct that the said sum of £ — shall be paid to the said A. B. [*or if the owner have been examined in proof of the offence, then say “ to — of — aforesaid, in which the said offence was committed, to be by him applied according to the directions of the statute in that case made and provided, A. B., the owner of the said —, having been examined in proof of the offence aforesaid”*] ; and I order that the said sum of — for costs shall be paid to the said A. B. Given under my hand and seal, the day and year first above mentioned.

Misdemeanor.

A **MISDEMEANOR** is, generally speaking, any offence less than felony, though the term, in acceptance of law, applies to the higher class of indictable offences, such as perjury, conspiracy, &c. (*i*) When a statute therefore declares that a party committing a certain act shall be guilty of a *Misdemeanor*, he may be *indicted* for the offence, and punished with fine and imprisonment.

Municipal Corporations—See **Constable, Corporations**.

Murder.

UNDER this head will be considered—

- | | | | |
|------------------------------------|-----|------------------------------------|-----|
| 1. <i>Murder</i> | 616 | 3. <i>Manslaughter</i> | 618 |
| 2. <i>Attempts to Murder</i> | 618 | 4. <i>Excusable Homicide</i> | 619 |

1. *Murder*.

The crime of *murder* is, by the 1 Edw. 6, c. 12, s. 10, punishable with death.

To constitute this atrocious crime, the killing must be with malice aforethought, either express or implied. The malice is *express*, when it proceeds from a spirit of malevolence to a particular individual, and the killing is with a deliberate fixed design, as by lying in wait for that purpose. It is *implied*, when it proceeds from a wicked and malignant spirit, generally ; a heart regardless of social duty ; or a mind deliberately bent upon mischief, careless of the consequences to life or limb. It is *implied*, also, from any barbarous or cruel act

wilfully committed by one man against another, however sudden it may be,—as where one person kills another upon a trifling provocation, if the mode of retaliation be greatly inadequate to the offence given,—using, for instance, a deadly weapon against a man unarmed,—or where he had time to cool and deliberate before the fatal stroke is given,—or where the master occasions the death of his apprentice by a punishment cruel in its nature, or by any means unreasonable and excessive.

But in no case can a party be guilty of murder, or indeed any species of homicide, where the death does not happen within *a year and a day* after the stroke received, or the cause of death administered; in the computation of which time, the whole day upon which the hurt was done is to be reckoned the first (*k*).

Aiders and Abettors.—Where several persons are present when a murder is committed, although one only actually does it, yet if the others abet him in the act,—or if the murder is committed in the prosecution of some unlawful act, in which they are all engaged,—they are all considered in law as principals in the murder; for the blow of one is the blow of all (*l*). But, in order to make an abettor to a murder or manslaughter a principal in the felony, he must be either actually present aiding and abetting the fact committed, or constructively present,—as, where he keeps watch or guard, while another commits the murder.

Accessories before the fact.—Whoever counsels, commands, or directs one man to kill another, and is absent himself at the time of the deed being done, is an *accessory* to the murder *before the fact*. And the same, though the crime be perpetrated by the intervention of a third person,—as where A. bids his servant hire somebody to assassinate B. So, although the party killed be not *in rerum naturâ*, at the time of the advice or counsel given,—as if a man advise a woman to kill her child as soon as it is born, and she then kills it in pursuance of such advice (*m*). By 9 Geo. 4, c. 31, s. 3, every accessory before the fact to murder shall *suffer Death, as a felon*; which punishment was before inflicted by the 4 & 5 Ph. & M. c. 4.

Accessories after the fact.—Whoever knows another to have committed a murder, and receives, harbours, comforts, or assists him, is an *accessory after the fact*; and is, by 9 Geo. 4, c. 31, s. 3, punishable with *Transportation for life; or imprisonment, with or without hard labour, not exceeding four years*.

(*k*) 1 Hawk. c. 31, s. 9.

(*m*) 1 Hale, 435, 617.

(*l*) 1 Hale, P. C. 439, 464.

2. *Attempts to Murder.*

Where a bodily Injury is inflicted.]—By 7 Will. 4 & 1 Vict. c. 85, s. 2, whoever shall administer to, or cause to be taken by any person any poison, or other destructive thing, or shall stab, cut, or wound any person, or shall by any means whatsoever cause to any person any bodily injury dangerous to life, with intent in any of the cases aforesaid to commit murder, shall be guilty of *Felony*, and being convicted thereof shall suffer *Death*.

Where no bodily Injury is inflicted.]—By sect. 3, whosoever shall attempt to administer to any person any poison, or other destructive thing, or shall shoot at any person, or shall by drawing a trigger, or in any other manner, attempt to discharge any kind of loaded arms at any person, or shall attempt to drown, suffocate, or strangle any person, with intent in any of such cases to commit the crime of murder, shall, although no bodily injury be effected, be guilty of *Felony*,—*Transportation for life, or not less than fifteen years, or imprisonment not exceeding three years, with or without hard labour, or solitary confinement.*

3. *Manslaughter.*

Where one man occasions the death of another, without malice, either express or implied, either voluntarily in the heat of blood excited by a reasonable provocation, or involuntarily in the commission of some unlawful act, or by some great negligence or carelessness, the offence will then be reduced to the minor crime of *manslaughter*. But, however grievous the provocation may have been, yet if it appear that there was an interval for reflection, or a reasonable time for the blood to cool, before the deadly purpose was effected, the offence will then be no longer manslaughter, but murder. And no words of reproach, however taunting,—nor any contemptuous actions or gestures, however insulting,—nor any trespass merely against lands or goods,—are sufficient to free the party killing from the guilt of murder, if, upon either of these provocations, he make use of a deadly weapon, or otherwise manifest a plain intention to kill. Nor will the plea of provocation be of any avail, if it were sought by the party, and induced by his own act, in order to afford him a pretence for wreaking his malice, or venting any old grudge rankling in his mind against the person who is killed (*n*).

4. *Excusable Homicide.*

Excusable homicide is, where the death is occasioned by some fault, some error, or some omission of the party who has caused the death, and is of two sorts, by *misadventure*, or in *self-defence*, when it is legally denominated *chance-medley*.

Misadventure.]—Homicide by *misadventure*, or *per infortunum*, is, where a man doing a lawful act, without any intention of hurt, and using proper precaution to prevent danger, unfortunately kills another, as where a man is at work with a hatchet, and the head flies off and kills a stander-by; or where a person qualified to kill game is shooting at a bird, and undesignedly kills his companion; for the act in both these cases is lawful, the effect merely accidental. But when the death happens from the use of *dangerous instruments*, it must be proved that reasonable precaution was observed by the party in the use of them, before the homicide can be held to be excusable. Therefore, where a man takes up a gun or pistol, which he merely thinks is unloaded, but does not properly examine it to ascertain the fact, and presenting it at another person in sport, pulls the trigger and kills him, this would amount to the offence of *manslaughter*. But where the death is occasioned by an accident occurring in any lawful sport or game, it is then only *misadventure*.

Chance-medley.]—The other species of excusable homicide denominated *chance-medley* is, where homicide is committed by a man upon a sudden affray in his own defence, that is, where he had no other possible (or, at least, probable) means of escaping from his assailant. And the true criterion between *chance-medley* and *manslaughter* seems to be this: when both parties are actually combating at the time when the mortal stroke is given, the slayer is then guilty of *manslaughter*; but if the slayer has not begun to fight, or (having begun) endeavours to decline any further struggle, and afterwards, being closely pressed by his antagonist, kills him to avoid his own destruction, this is *chance-medley*, or homicide excusable by *self-defence*.

By the old common law, *excusable homicide*, though excused from the guilt of felony, was not deemed quite so venial as not to call for some slight degree of punishment, and accordingly a portion of his goods were forfeited by way of fine, or *mergild*, which were afterwards restored to him on suing out a writ of restitution (o). But

now, by 9 Geo. 4, c. 31, s. 10, it is expressly declared that no punishment or forfeiture shall be incurred by any person who kills another by *misfortune*, or in his own defence, or in any other manner without felony.

Justifiable Homicide.—There is another species of homicide, which is more than *excusable*, and is held in law to be *justifiable*, and that is where the death is occasioned by some unavoidable necessity, without any will, intention, or desire, and without inadvertence or negligence, in the party killing, and therefore without any shadow of blame. Under this head is classed, the execution of malefactors by a public officer, in obedience to the mandate of the law; or where the death of the party is unavoidably occasioned by his resistance to a lawful arrest by an officer in the strict execution of his duty. Homicide is also justifiable, when it is committed by a man in defence of his person, habitation, or property, against any one who endeavours by *violence* to commit a known felony upon either, such as murder, robbery, arson, burglary, and the like. But the bare fear, however well grounded, of such a felony being committed, will not warrant a man in killing another by way of prevention; but there must be actual danger at the time arising from an overt act of the other, indicative of his intention to commit a felony and the felony must be one accompanied with force; for the rule does not apply to picking of pockets (*p*).

1. *Commitment for Murder (q) by Stabbing.*

Kent, { To the constable of — in the said county, and to the keeper of the
to wit. } common gaol at — in the said county.

These are to command you, the said constable, in her Majesty's name, forthwith to convey and deliver into the custody of the keeper of the said common gaol the body of A. B., charged this day before me, J. P., esquire, one of her Majesty's justices of the peace in and for the said county, on the oath of C. D. and others.: For that he the said A. B. on the — day of —, in the year of our Lord 1842, at — in the said county, feloniously, wilfully, and of his malice aforethought, did kill and murder one C. D., by stabbing the said C. D. with a knife in and upon the said left side of the belly, and on other parts of the body of him the said C. D., thereby giving him divers mortal wounds, of which said mortal wounds the said C. D. instantly died. And you the said keeper are hereby required to receive the said A. B. into your custody in the said common gaol, and him there safely keep, until he shall be thence delivered by due course of law. Herein fail you not. Given under my hand and seal this — day of —, in the year of our Lord 1842.

(*p*) 1 Hale P. C. 484; 4 Bl. Com. 180.

(*q*) A commitment for *manslaughter* is the same as a commitment for murder, except that instead of the words "feloniously,

wilfully, and of his malice aforethought, did kill and murder," say "feloniously did kill and slay."

2. Murder by Shooting.

Commencement as ante.] on the — day of —, in the year of our Lord 1842, at — in the said county, feloniously, wilfully, and of his malice aforethought, did kill and murder one C. D., by shooting and discharging a certain gun, loaded with gun-powder and a leaden bullet, at and against the said C. D., thereby giving to the said C. D. in and upon the head of him the said C. D. one mortal wound, of which said mortal wound the said C. D. instantly died. And you the said keeper, &c. [*as ante to the end.*]

3. Murder by Beating and Kicking.

Commencement as in form No. 1.] on the — day of —, in the year of our Lord 1842, at — in the said county, feloniously, wilfully, and of his malice aforethought, did kill and murder one C. D., by casting and throwing the said C. D. to and against the ground, and then and there with both the hands and feet of him the said A. B. striking, beating, and kicking the said C. D. upon the head, stomach, back, and other parts of the body of him the said C. D., thereby giving to the said C. D. several mortal bruises and wounds in and upon his head, stomach, back, and other parts of his body, of which said several mortal bruises and wounds the said C. D. afterwards on the — day of — last past died. And you the said keeper, &c. [*as in form No. 1 to the end.*]

4. Murder by Drowning.

Commencement as in form No. 1.] on the — day of —, in the year of our Lord 1842, at — in the said county, feloniously, wilfully, and of his malice aforethought, did kill and murder one C. D., by casting, throwing, and pushing the said C. D. into a certain pond of water, by means of which the said C. D. was then and there drowned and instantly died. And you the said keeper, &c. [*as in form No. 1 to the end.*]

5. Murder by Poison.

Commencement as in form No. 1.] on the — day of —, in the year of our Lord 1842, at — in the said county, feloniously, wilfully, and of his malice aforethought, did kill and murder one C. D., by then and there mixing a large quantity of a certain deadly poison, called white arsenic, with a certain quantity of tea which the said C. D. was then about to drink, and which the said C. D. did then and there drink, by means whereof he the said C. D. then and there became sick, and of the said poison so drunk by him as aforesaid and of the sickness occasioned thereby, he the said C. D. afterwards on &c., at &c. died. And you the said keeper, &c. [*as in form No. 1 to the end.*]

6. Shooting at a Person with intent to Murder.

Commencement as in form No. 1.] on the — day of —, in the year of our Lord 1842, at — in the said county, with a certain gun loaded with powder and divers leaden shot, unlawfully, maliciously, and feloniously did shoot at and against one C. D., with intent in so doing to murder the said C. D., against the form of the statute in that case made and provided. And you the said keeper, &c. [*as in form No. 1 to the end.*]

7. Attempting to discharge a Pistol at a Person, with intent to Murder.

Commencement as in form No. 1.] on the — day of —, in the year of our Lord 1842, at — in the said county, certain loaded firearms, to wit, a certain pistol, then and there loaded with powder and one leaden bullet, at and against one C. D. unlawfully, maliciously, and feloniously did present, point, and level, and did then and there by drawing the trigger of the said pistol, unlawfully, maliciously, and feloniously attempt to discharge the same at and against the person of the said C. D. with intent to murder the said C. D., against the form of the statute in that case made and provided. And you the said keeper, &c. [*as in form No. 1 to the end.*]

8. Attempting to Murder by Poison, &c.

Commencement as in form No. 1.] on the — day of —, in the year of our Lord 1842, at — in the county aforesaid, unlawfully, maliciously, and feloniously did attempt to administer to one C. D. a large quantity of a certain deadly poison, called white arsenic, by putting the same into a certain quantity of milk which the said C. D. was then about to drink, with intent to poison, kill, and murder the said C. D., against the form of the statute in that case made and provided. And you the said keeper, &c. [*as in form No. 1 to the end.*]

—◆—
Mutiny Act—See Soldiers.

—◆—
Rabal Stores—See Marine Stores.

—◆—
Navigable Rivers—See Banks of Rivers, Rivers, Ships.

—◆—
Navy Pensions—See Army Pensions, Forgery, Seamen.

—◆—
Newspapers and Pamphlets.

- | | |
|--|-----|
| 1. Newspapers | 622 |
| 2. Pamphlets and periodical Publications | 627 |

1. Newspapers.

PUBLISHING *Supplements contrary to directions of Act.]—*
By 6 & 7 Will. 4, c. 76, s. 5, every sheet or piece of paper, which shall be published as a supplement to any newspaper, must be printed with the same title and date as the newspaper itself, with the addition of the words "Supplement to" prefixed to such title; and if any supplement shall be published, not having printed thereon the several particulars required by the act, the publisher shall, for every such sheet or piece of paper, and for every copy thereof, forfeit 20*l*. And if any person shall sell, deliver out, or in any way publish, any

sheet or piece of paper as a supplement to any newspaper, without at the same time selling and delivering therewith the newspaper itself, he is also liable to a penalty of 20*l*.

False Declarations as to Ownership, &c.]—By *sect. 6*, no person is to print or publish a newspaper, until a declaration containing certain particulars be made and delivered at the Stamp Office; and a fresh declaration must be made as often as there is any change of share or interest in the newspaper. If any person shall make a false or defective declaration, as to name, addition, or place of abode of any proprietor, printer, or publisher, he is guilty of a *misdemeanor*.

Service of Process.]—By *sect. 9*, the service of any process at the place of printing or publishing the newspaper, as mentioned in such declaration, shall be deemed sufficient.

Penalty for not delivering Copies at Stamp Office.]—By *sect. 13*, the printer or publisher of every newspaper published in *London, Edinburgh, or Dublin*, or within twenty miles thereof respectively, shall, upon every day on which such newspaper shall be published, or on the day next following which shall not be a holiday, between the hours of ten and three, deliver at the Stamp Office in one of those cities in which, or nearest to which, such newspaper shall be published, one copy of every such newspaper, and of every second or other varied edition or impression thereof, with the name and place of abode of the printer or publisher thereof signed and written thereon, after the same shall be printed, by his proper hand and in his accustomed manner of signing, or by some person appointed and authorized by him for that purpose, and of whose appointment and authority notice in writing, signed by such printer or publisher in the presence of and attested by an officer of stamp duties, shall be given at the office. In any other place in the united kingdom, the printer or publisher shall, upon every day on which such newspaper shall be published, or within three days next following, in like manner deliver to the distributor of stamps, or other authorized officer in whose district such newspaper shall be published, two copies of every such newspaper, and of every second edition thereof, with the name and place of abode of the printer or publisher thereof signed and written thereon in manner aforesaid, after the same shall be printed. These copies are to be carefully kept by the Commissioners, or by the distributor, in such manner as the Commissioners shall direct; and the printer or publisher is entitled to demand and receive from the Commissioners, or the distributor, once in every week, the

amount of the ordinary price of the newspapers so delivered. Every printer and publisher, who shall make default in this respect, is liable to a penalty of 20*l*.

Name of Printer to be printed on each Newspaper.—By sect. 14, at the end of every newspaper, and of any supplement, there must be printed the christian name and surname, addition, and place of abode of the printer and publisher, and also a true description of the house or building wherein the same is actually printed and published, and the day of the week, month, or year on which the same is published. If any person shall knowingly and wilfully print or publish, or cause to be printed or published, any newspaper, or supplement thereto, without the above particulars, or with any false name, addition, place, or day, or whereon the description of the place of printing or publishing shall be different in any respect from the description mentioned in the declaration, he is liable to a penalty of 20*l*.

Penalty for publishing Newspapers not duly stamped.—By sect. 17, if any person shall knowingly and wilfully print, or cause to be printed or published, any newspaper not duly stamped according to law, or shall sell, utter, or expose to sale, or dispose of, or distribute the same, or have in his possession any such newspaper, he is also liable to a penalty of 20*l*. for every copy thereof. Any officer of stamp duties, or any person authorized by the Commissioners of Stamps and Taxes, may apprehend any such offender, and take him before a justice, who shall hear and determine the matter in a summary way; and if, upon conviction, the offender shall not immediately pay the penalty in which he shall be convicted, the justice may commit him not exceeding three calendar months, nor less than one.

Pamphlets or Papers containing Advertisements.—By sect. 21, a printed copy of every periodical literary work or paper (not being a newspaper), containing, or having published therewith, any advertisement liable to stamp duty, which shall be published within *London*, *Edinburgh*, or *Dublin*, or within twenty miles thereof respectively, shall, within six days after publication, be brought, together with all advertisements printed therein, to the head office for stamps in *Westminster*, *Edinburgh*, or *Dublin*, nearest to which such literary work or paper shall have been published, and the title thereof, and the Christian name and surname of the printer and publisher, with the number of advertisements contained therein, and the stamp duty payable in respect of the same, shall be registered in a book to be

kept at such office, and the duty of such advertisements shall be there paid to the proper officer. Where the work is published in any other place, a printed copy must, within ten days after publication, be brought to the head distributor of stamps within the district, who is required forthwith to register the same, and the duty is to be paid to him. For any default in the payment of the duty as above mentioned, the printer and publisher of the work, and every other person concerned in such printing or publishing, and the publisher of any such advertisements, shall respectively forfeit 20*l*. In any proceeding for the recovery of such penalty, proof of the payment of the duty lies upon the defendant.

Search Warrants.—By *sect. 22*, any justice of the peace, on information upon oath, may grant warrants to search for unstamped newspapers, and to seize presses, &c. used in the printing the same; which are declared to be forfeited to the use of the crown.

Penalty for resisting Constables, &c.—By *sect. 23*, upon the execution of any search warrant, if, on demand of admittance and notice of such warrant, the door of any house, room, shop, warehouse, outhouse, or other place, shall not be forthwith opened, the constable, or other peace officer, having the execution of such warrant, or any other person to whom such warrant shall be directed, in the presence of such constable or other peace officer, may in the daytime break open such door, and enter thereat for the purpose of making such search. If any person shall refuse to permit any constable, or any other person duly authorized, to enter into any house, &c. for the purpose of making any search, or shall resist, obstruct, molest, prevent, or hinder him in the execution of any other duty imposed upon him by the act, the offender is liable to a penalty of 20*l*. If any constable, or other peace officer, shall neglect or refuse to do or perform any service or duty required by the act, or shall neglect or refuse to aid and assist in the execution of any warrant, or of any of the provisions of the act, upon proper application or notice made or given to him in that behalf, he is also liable to a penalty of 10*l*.

Recovery and Application of Penalties.—By *sect. 27*, all pecuniary penalties may be sued for, for the use of the Crown, in the name of the Attorney or Solicitor General, or of the Solicitor of Stamps and Taxes, or of any person duly authorized by the Commissioners of stamps and taxes, or in the name of any officer of stamp duties, in respect of any penalty not exceeding 20*l*., by information

before *one* justice. The Commissioners of Stamps may mitigate any penalty, and stay any proceedings after the same shall have been commenced. All penalties to go to the Crown, and be accounted for as part of the revenues arising from stamp duties. But the Commissioners may give all or part of any penalty as a reward to the informer.

Mode of proceeding.—By *sect. 28*, any justice, where the penalty for any offence shall not exceed 20*l.*, may, upon an information exhibited or complaint made by any person duly authorized, summon the party accused, and also the witnesses on either side; and whether the party accused shall appear, or not, the justice may hear and determine the case on the oath of *one* witness, and levy the penalty by distress; in default of which, commitment not exceeding three calendar months, nor less than one. *Appeal* to the next sessions after ten days from the conviction, of which seven days' notice must be given to the prosecutor, upon entering into the usual recognizance. No *certiorari*, and the justice may mitigate any penalty to one fourth of the amount, exclusive of costs.

Compelling Attendance of Witnesses.—By *sect. 30*, a justice may summon any person to give evidence touching any offence, and if he shall neglect or refuse to appear, without reasonable excuse to be stated upon oath, or if, having appeared, he shall refuse to give evidence, he shall forfeit 10*l.*

Service of Process.—By *sect. 31*, personal service of a summons is not necessary, but it is sufficient, if the summons, or a copy thereof, be left at the last known place of abode of the defendant, or person to be summoned.

Penalty for inclosing any Writing in Newspapers sent by the Post.—By 6 & 7 Will. 4, c. 54, relating to the conveyance of newspapers by the post, it is enacted by *sect. 19*, in order to prevent frauds on the revenue of the post office, that if any person shall inclose or conceal, or cause or procure to be inclosed or concealed, in any newspaper sent or to be sent by the post, any letter, paper, or thing, or shall print, or cause to be printed, any words or communication upon any such newspaper, after the same shall have been published, or upon the cover thereof, or put or place, or cause to be put or placed, any writing or marks upon any such newspaper, or the cover thereof, other than the name and address of the person to whom it is sent, or shall knowingly send, or cause to be sent, by the post, or tender or deliver in order to be sent by the post, any news-

paper, having inclosed or concealed therein any letter, paper, or thing, or having any words or communication printed on such paper after the same was published, or on the cover thereof, or having any writing or marks upon such newspaper, or the cover thereof, other than the name and address of the person to whom it is sent; every person so offending shall forfeit and pay to her Majesty, her heirs and successors, such a sum of money as will be equal to treble the duty of letter postage, which, according to the rates established by law for the conveyance of letters by the post, would have been payable on such newspaper or packet in case the same had been a letter sent by the post; which treble duty shall be recovered and recoverable with costs, in the same manner as any sums due for postage not exceeding 20*l.* are directed to be recovered; or such person shall, at the option of the Postmaster-General, be prosecuted for a misdemeanor.

Recovery of Sums due for Postage of Newspapers.—By sect. 24, all sums of money not exceeding 20*l.*, which shall be due from any person for the postage of any newspaper or packet, or which shall be due from any deputy, agent, or letter carrier, for the postage of any newspapers or packets to him intrusted for delivery, under the authority of the Postmaster-General, or the provisions of that act, may be recovered by distress, or otherwise, in like manner as under the 5 & 6 Will. 4, c. 25, s. 28, that is, by a warrant of distress under the hand and seal of a justice of the peace.

The following Form of Conviction is directed by the 6 & 7 Will. 4, c. 76, s. 29.

County of —, } Be it remembered, that on the — day of —, in the year
to wit. } of our Lord — at — A. B., of —, was duly convicted before me, C. D., esquire, one of her Majesty's justices of the peace in and for the county of — in pursuance of an act passed in the seventh year of the reign of King William the Fourth, intituled [*insert the title of the act*] for that the said A. B. [*here state the offence*] contrary to the form of the statute in that case made and provided; for which offence I do adjudge that the said A. B. hath forfeited the sum of £—, and [*if the justice mitigate the penalty*] which sum of £— I do hereby mitigate to the sum of —, over and above the sum of —, which I do allow to E. F. for his reasonable costs and expenses in prosecuting this conviction. Given under my hand and seal this — day of —, in the year of our Lord —.

2. Pamphlets and Periodical Publications.

When to be published.—By 60 Geo. 3 & 1 Geo. 4, c. 9, s. 4, all pamphlets and papers containing any public news, intelligence, or occurrences, or any such remarks or observations thereon, printed for sale and published periodically, or in parts or numbers, at inter-

vals exceeding twenty-six days between any two such pamphlets or papers, parts or numbers, and which said pamphlets, papers, parts or numbers respectively, shall not exceed two sheets, or which shall be published for sale at a less price than sixpence, shall be first published on the first day of every calendar month, or within two days before or after that day, and at no other time; and if any person shall first publish, or cause to be published, any such pamphlet, paper, part or number aforesaid, on any other day or time, he shall forfeit for every such offence the sum of 20*l*.

Penalty for not printing thereon the Price, and Day of Publication, &c.—By *sect. 5*, upon every pamphlet or paper containing any public news, intelligence, or occurrences, or any remarks or observations thereon, or upon any matter in church or state, printed in any part of the United Kingdom for sale, and published periodically, or in parts or numbers, at intervals not exceeding twenty-six days between the publication of any two such pamphlets or papers, parts or numbers, and upon every part or number thereof, shall be printed the full price at which every such pamphlet, &c. shall be published for sale, and also the day on which the same is first published; and if any person shall publish any such pamphlet, &c. without the said price and day being printed thereon; or if any person shall, at any time within two months after the day of publication printed thereon as aforesaid, sell or expose to sale, any such pamphlet, &c. or any portion or part thereof, upon which the price so printed as aforesaid shall be sixpence or above that sum, for a less price than the sum of sixpence, every such person shall for every such offence forfeit and pay the sum of 20*l*. But (by *sect. 6*) this is not to subject any person publishing any pamphlet or paper to any penalty, for any allowance in price made by the person for whom and on whose behalf, and for whose profit, benefit or advantage the same shall have been first published, to any bookseller, or distributor, or other person to whom the same shall be sold for the purpose of retailing the same.

Publishers to give Security.—By *sect. 8*, no person shall print or publish for sale any newspaper, or any pamphlet, or other paper containing any public news, intelligence, or occurrences, or any remarks or observations thereon, or upon any matter in church or state, which shall not exceed two sheets, or which shall be published for sale at a less price than sixpence, until he shall have entered into a recognizance before a baron of the exchequer in England, Scotland, or Ireland respectively, as the case may be, if such newspaper or

pamphlet, or other paper aforesaid, shall be printed in London or Westminster, or in Edinburgh, or Dublin,—or shall have executed in the presence of, and delivered to, some justice of the peace for the county, city, or place, where such newspaper, pamphlet or other paper shall be printed, if printed elsewhere,—a bond to her Majesty, her heirs and successors, together with two or three sufficient sureties, to the satisfaction of the baron of the exchequer taking such recognizance, or of the justice of the peace taking such bond,—every person printing or publishing any such newspaper, pamphlet or paper aforesaid, in the sum of 300*l.*, if such newspaper, pamphlet or paper shall be printed in London, or within twenty miles thereof, and in the sum of 200*l.* if such newspaper, pamphlet or paper shall be printed elsewhere in the United Kingdom,—and his or her sureties in a like sum in the whole, conditioned that such printer or publisher shall pay to her Majesty, her heirs and successors, every such fine or penalty as may at any time be imposed upon or adjudged against him, by reason of any conviction for printing or publishing any blasphemous or seditious libel, at any time after the entering into such recognizance or executing such bond; and every person, who shall print or first publish any such newspaper, pamphlet, or other paper, without having entered into such recognizance, or executed and delivered such bond with such sureties as aforesaid, shall for every such offence forfeit the sum of 20*l.*

Where new Sureties to be given.—By sect. 9, where any surety shall have paid the whole, or any part, of the sum for which he shall have become surety, or where any such surety becomes bankrupt, or is discharged under any insolvent act; then the person, for whom such surety shall have been bound, shall not print or publish any newspaper or pamphlet, or other paper aforesaid, until he shall, upon being required so to do by the Commissioners of Stamps, have entered into a new recognizance, or executed a new bond with sufficient sureties, in the manner and to the amount aforesaid; and in case he shall print or publish any such newspaper or pamphlet, or other paper aforesaid, without having entered into such new recognizance, or executed such new bond as aforesaid, having been required so to do as aforesaid, he shall forfeit for every such offence the sum of 20*l.*

Sureties withdrawing from Recognizance.—By sect. 10, if any surety or sureties shall be desirous of withdrawing from such recognizance or bond, he may do so, upon giving twenty days' previous notice in writing to the Commissioners of Stamps respectively, or to

the distributor of stamps of and for the district where the printer or publisher shall reside, and also to such printer or publisher; and then the surety, after the expiration of such notice, shall not be liable upon the bond or recognizance, except for any penalties before that time incurred; and the person, for whom such surety shall have been bound, shall not print or publish the newspaper or pamphlet, until he shall have entered into a new recognizance or executed a new bond with sufficient sureties, under the penalty of 20*l*.

Copies to be delivered at the Stamp Office.—By *sect. 13*, the printer or publisher of any pamphlet or other paper for sale, containing any public news, intelligence or occurrences, or any remarks or observations thereon, or on any matter in church or state, shall, upon every day upon which the same shall be published, or within six days after, deliver at the Stamp Office, or to some distributor or officer appointed by the Commissioners to receive the same, one of the pamphlets or papers so published, upon each such day, signed by the printer or publisher thereof, in his handwriting, with his name and place of abode; which is to be carefully kept by the commissioners or such distributor or officer, and for which the printer or publisher is entitled to receive from the Commissioners, or such distributor or officer, the amount of the retail price of such paper or pamphlet. For every neglect to deliver one such pamphlet or paper, such printer and publisher is liable to a forfeiture of 100*l*.

By *sect. 14*, in case the Commissioners, or such distributor or officer as aforesaid, shall refuse to receive or pay for any copy of such pamphlet or paper, on account of the same not being within the true intent and meaning of the act, the printer or publisher may require of them a certificate in writing that a copy of such pamphlet or paper had been by him duly offered to be delivered; and he is thereupon freed and discharged from any penalty for not having delivered such copy.

Surety for good Behaviour.—By *sect. 16*, any court, or justice of the peace, before whom any person charged with having printed or published any blasphemous, seditious, or malicious libel, shall be brought for the purpose of giving bail upon such charge, may make it a part of the condition of the recognizance to be entered into by such person and his or her bail, that the person so charged shall be of good behaviour during the continuance of such recognizance.

Recovery of Penalties.—By *sect. 17*, all fines, penalties and forfeitures may be recovered, not only by action of debt in the courts at

Westminster, but also before any two justices of the peace of the county where the offence shall be committed. But no larger amount in the whole than 100*l.* is recoverable before any justice of the peace, for any such penalties incurred in any one day.

Proceedings.—By *sect. 18*, where any two justices are authorized to hear and determine any offence, upon information exhibited or complaint made in that behalf, within three months after any such offence committed, they may summon the party accused, and also the witnesses on either side; and upon the appearance, or contempt of the party accused in not appearing, may proceed to the examination of witnesses upon oath, and give judgment for the penalty incurred; and in default of payment may commit the offender to prison, not exceeding six months, unless the penalty shall be sooner paid. An appeal is given to the next quarter sessions, upon giving security to the amount of the penalty adjudged, together with such costs as may be awarded in case the judgment shall be affirmed. Justices are empowered to mitigate any penalty in such manner as they in their discretion shall think fit; the reasonable costs of the officers or informers being allowed over and above such mitigation; and so as such mitigation does not reduce the penalty to less than one-fourth part thereof, over and above the said costs and charges.

By *sect. 20*, a general form of conviction is directed; which (by *sect. 21*) is not removable by *certiorari*.

By *sect. 22*, no proceedings can be prosecuted, unless in the name of the Attorney-General, or the solicitor or some other officer of the Stamp Office.

Witnesses.—By *sect. 19*, if any person shall be summoned as a witness to give evidence before the justices touching any offence, and shall neglect or refuse to appear at the time and place to be for that purpose appointed, without a reasonable excuse, or if, after appearing, he shall refuse to give evidence, he is liable to forfeit not exceeding 20*l.*, to be levied and paid in the same manner as other penalties.

Right-Poaching—See Game.

Noisy Instruments.

By 2 & 3 Vict. c. 47, s. 54, ¶ 14, every person, except the guards and postmen belonging to her Majesty's post office in the performance of their duty, who shall in any thoroughfare or public place

within the limits of the metropolitan police district, blow any horn, or use any other noisy instrument, for the purpose of calling persons together, or of announcing any show or establishment, or for the purpose of hawking, selling, distributing or collecting any article whatever, or of obtaining money or alms, is liable to a penalty not more than 40s., recoverable before a justice under the 76 and 77th sects. of the act (r).

Nuisance. For the penalties incurred for various nuisances within the limits of the metropolitan police district, see *ante*, **Metropolitan Police**, and *post*, **Street Act**.

Nursery Grounds—See **Gardens**.

Oaths.

ADMINISTERING or taking unlawful Oaths.]—By 37 Geo. 3, c. 123, s. 1, any person, who shall in any manner or form whatsoever administer, or cause to be administered, or be aiding or assisting at, or present at and consenting to, the administering or taking of any oath or engagement, purporting or intended to bind the person taking the same to engage in any mutinous or seditious purpose, or to disturb the public peace, or to be of any association, society, or confederacy formed for any such purpose, or to obey the orders or commands of a body of men not lawfully constituted, or of any leader, or commander, or other person, not having authority by law for that purpose, or not to inform or give evidence against any associate, confederate, or other person, or not to reveal or discover any unlawful combination or confederacy, or not reveal or discover any illegal act done, or to be done, or not to reveal or discover any illegal oath or engagement which may have been administered, or tendered to, or taken by such person, or any other person, or the import of any such oath or engagement; *Felony; Transportation not exceeding seven years.* And every person, who shall take any such oath or engagement, not being compelled thereto, is also declared to be guilty of *Felony, punishable with transportation not exceeding seven years.*

When compulsion shall not excuse.]—By sect. 2, compulsion shall not excuse any person taking such oath or engagement, unless within

(r) See *ante*, **Metropolitan Police**.

four days after the taking thereof, if not prevented by actual force or sickness, and then within four days after such hindrance shall cease, he shall declare the same, together with the whole of what he shall know touching the same, and the persons in whose presence, and when and where such oath and engagement was administered or taken, by information on oath before some justice, secretary of state, or the privy council,—or, in case the person taking such oath or engagement shall be in actual service in his Majesty's forces by sea or land, by information to his commanding officer.

Persons aiding deemed Principals.—By sect. 3, persons aiding and assisting at, or present at, or consenting to, the administering or taking of any such oath or engagement, and persons causing it to be administered or taken, though not present, shall be deemed principal offenders, and may be tried as such, although the person who actually administered it shall not have been tried or convicted.

What Engagement to be deemed an Oath.—By sect. 5, any engagement or obligation whatsoever in the nature of an oath shall be deemed an oath, within the meaning of the act, in whatever form or manner the same shall be administered or taken, and whether the same shall be actually administered by any person, or taken by any person, without any administration.

Unlawful Oaths to commit a capital Felony.—By 52 Geo. 3, c. 104, s. 1, every person, who shall in any manner or form whatsoever administer, or cause to be administered, or be aiding or assisting in the administering of, any oath or engagement, purporting or intended to bind the person taking the same to commit any treason, or murder, or any felony punishable by law with death, is declared to be guilty of a *capital Felony*. But now, by 7 Will. 4 and 1 Vict. c. 91, ss. 1, 2, the punishment is reduced to transportation for life, or not less than fifteen years, or imprisonment not exceeding three years, with or without hard labour and solitary confinement.

By 52 Geo. 3, c. 104, s. 1, every person, who shall take any such oath or engagement, not being compelled thereto, is also declared to be guilty of *Felony, punishable with Transportation for life, or for such term of years as the court shall adjudge*.

When Compulsion no excuse.—By sect. 2, compulsion shall not excuse any person taking such oath or engagement, unless he complies with the condition mentioned in the 2nd sect. of the former statute (37 Geo. 3, c. 123) within fourteen days after taking the oath.

Persons aiding deemed Principals.—By sect. 4, persons aiding and assisting at the administering of any such oath or engagement, or causing it to be administered, though not present, shall be deemed principal offenders, and be tried as such, and *suffer the same punishment as felons*, although the person who actually administered the oath or engagement shall not have been tried or convicted.

What Engagement to be deemed an Oath.—By sect. 6, any engagement or obligation in the nature of an oath, purporting or intending to bind the person taking the same to commit any treason, or murder, or any felony punishable by law with death, shall be deemed an oath within the intent and meaning of the statute.

And see *ante*, **Combinations**.

A Declaration to be substituted for an Oath in Revenue Cases.—By 5 & 6 Will. 4, c. 62, s. 1, the Lords of the Treasury are empowered to substitute a declaration, in lieu of an oath, &c. in certain cases relating to the revenue; and (by sect. 4) no oath is to be administered in such cases, where such declaration has been directed.

Penalty for false Declarations.—By sect. 5, if any person shall make or subscribe any such declaration, and shall wilfully make therein any false statement as to any material particular, he shall be deemed guilty of a *misdemeanor*.

When unlawful for a Justice to administer an Oath.—By sect. 13, it shall not be lawful for any justice, or other person, to administer, or cause or allow to be administered, or to receive, or cause or allow to be received, any oath, affidavit, or solemn affirmation, touching any matter or thing whereof he hath no jurisdiction or cognizance by some statute in force at the time being. But this provision is not to extend to any oath, affidavit, or solemn affirmation, for any matter or thing touching the preservation of the peace, or the prosecution, trial, or punishment of offences, or touching any proceedings before either of the houses of parliament, or any committee thereof respectively, nor to any oath, affidavit, or affirmation, which may be required by the laws of any foreign country to give validity to instruments in writing designed to be used in such foreign country.

By sect. 18, after reciting that it may be necessary in many cases not specified in the act to require confirmation of written instruments or allegations, or proof of debts, or of the execution of deeds, or other matters, it is declared that it shall be lawful for any justice, notary public, or other officer, by law authorized to administer an

oath, to take and receive the declaration of any person voluntarily making the same before him, in the form given in the schedule; and if any declaration so made shall be false or untrue in any material particular, the person making it shall be deemed guilty of a *misdeemeanor*.

By *sect. 19*, the fee payable on an oath is to be payable on a declaration substituted in lieu thereof.

Form of Declaration referred to by the 5 & 6 Will. 4, c. 62, s. 18,
** as contained in the Schedule.*

I A. B. do solemnly and sincerely declare, that — ; and I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provision of an act made and passed in the 5th and 6th years of the reign of King William the Fourth, intituled “An Act,” &c. [*here insert the title of the act.*]

—◆—
Obscenity—See **Indecency**.

—◆—
Officer—See, **Constable**.

—◆—
Orchards—See **Gardens**.

—◆— **Orders.**

WHERE a magistrate has jurisdiction given him by a statute to make an order in any matter, and there is no particular remedy prescribed to punish the disobedience of the party on whom it is made, it is an indictable offence to disobey it (*s*). Where the order is made upon several persons, they must be all personally served with it, before an indictment will lie (*t*). And it is no defence to a party for total disobedience of an order, that when the order was served upon him, he was not able to perform its requisitions with so much facility as if he had been sooner ordered to perform what was required of him; for he is bound to obey the order as much as lies in his power, and is not justified in utterly disregarding it (*u*).

A magistrate cannot amend an *order*, although he may a conviction, previously to its being returned to the sessions. An appellant has therefore a right of appeal against an order in its original form, and not as it may have been amended (*x*).

(*s*) Say. 163.

(*t*) *R. v. Kingston*, 8 East, 41.

(*u*) *R. v. Gash*, 1 Star. Rep. 441.

(*x*) *R. v. Js. of Cheshire*, 5 B. & Adol. 439.

For the disobedience by constables and overseers of magistrates' orders, see **Constable**, **Overseers**.

—◆—
Ordnance Stores—See **Stores of War**.

—◆—
Overseers—See **Poor**.

—◆—
Oysters—See **Fish**.

—◆—
Pales—See **Fences**.

—◆—
Pamphlets—See **Newspapers**.

—◆—
Park—See **Beer**, **Trees**.

—◆—
Parish Registers—See **Forgery**, 315; **Registry of Births**, &c.

—◆—
Paving Act—See **Street Act**.

Pawnbrokers.

LICENCE.]—By 25 Geo. 3, c. 48, every person exercising the trade of a pawnbroker must take out a licence, which is only to extend to *one* house, and renew the same annually. By 9 Geo. 4, c. 49, s. 12, the licence expires on the 31st July in every year, the amount of which is, (by 55 Geo. 3, c. 184, sched. part 1,) declared to be 15*l.* for exercising the trade within the cities of London and Westminster, or within the limits of the twopenny post, and 7*l.* 10*s.* for exercising the trade elsewhere.

Rates of Interest.]—By 39 & 40 Geo. 3, c. 99, s. 2, pawnbrokers are only allowed to take the following rates of profit for the redemption of pledges:—

For every pledge upon which there shall have been lent any sum not exceeding 2*s.* 6*d.*, the sum of $\frac{1}{2}$ *d.* for any time during which the pledge shall remain in pawn not exceeding one calendar month, and the same for every calendar month afterwards, including the current

month in which such pledge shall be redeemed, although such month shall not be expired.

For every pledge upon which there shall have been lent the sum of 5s....1d.

For every pledge upon which there shall have been lent the sum of 7s. 6d....1½d.

For every pledge upon which there shall have been lent 10s... 2d.

For every pledge upon which there shall have been lent 12s. 6d. 2½d.

For every pledge upon which there shall have been lent 15s... 3d.

For every pledge upon which there shall have been lent 17s. 6d. 3½d.

For every pledge upon which there shall have been lent 1l...4d.; and so on progressively, and in proportion for any sum not exceeding 40s.

For every pledge upon which there shall have been lent any sum of money exceeding 40s., and not exceeding 42s....8d.

And for every pledge upon which there shall have been lent any sum exceeding 42s. and not exceeding 10l., at and after the rate of 3d., and no more, for the loan of every 20s. for all such money so lent, by the calendar month, including the current month; and so in proportion for any fractional sum.

Which said several sums shall be taken in lieu of, and as a full satisfaction for, all interest due and charges for warehouse room.

By *sect. 3*, in all cases where any intermediate sum lent upon any pawn or pledge shall exceed the sum of 2s. 6d., and not exceed the sum of 40s., the person lending the same shall and may take by way of profit, at and after the rate of 4d., and no more, for the loan of 20s. by the calendar month, including the current month.

Interest for part of a Month.—By *sect. 5*, where the party applies for the redemption of the goods within seven days after the expiration of the first calendar month after the same shall have been pledged, he is at liberty to redeem the same, without paying anything by way of profit to the pawnbroker for the seven days, or such part thereof as shall then have elapsed; and where the party applies after the expiration of the first seven days, and before the expiration of the first fourteen days of the second calendar month, he is then at liberty to redeem the goods, upon paying the profit payable for one calendar month and the half of another calendar month to the pawnbroker; but where the party applies after the expiration of the said

first fourteen days, and before the expiration of the second calendar month, the pawnbroker may then demand and take the profit of the whole second month; and the like regulation and restriction applies to every subsequent calendar month, wherein application shall be made for redeeming goods pawned.

Pawns to be entered in Books, and Pawn Tickets to be given.—By sect. 6, every pawnbroker taking goods in pledge, whereon shall be lent any sum of money exceeding 5s., must forthwith, and before he advances any money upon such pledge, enter in a book a description of the goods received in pledge, and also the sum of money to be advanced thereon, with the day of the month and year on which, and the name of the person by whom, such goods are pledged, and the name of the street, and number of the house if the same shall be said to be numbered, where such person shall abide, and whether such person is a lodger in or the keeper of such house, by using the letter “L” if a lodger, and the letter “H” if a housekeeper, and also the name and place of abode of the owner of the goods, according to the information of the person pledging the same; into all which circumstances the pawnbroker is required to inquire of the party pawning, before any money shall be lent; and in all cases where the money lent shall not exceed the sum of 5s., such entry must be made within four hours next after the goods shall have been pledged. Every pledge, upon which shall be lent any sum of money above 10s., must be entered in a book separate and apart from all other pledges whatsoever; and every such entry shall be numbered in such books progressively, as the goods are received in pawn, in the manner following; (viz.) the first pledge that is received in pawn in any calendar month must be numbered No. 1, the second No. 2, and so on progressively until the end of the month; and upon every note or memorandum respecting any such last mentioned pledge, there must be fairly and legibly written or printed the number of the entry of such pledge so entered in such book. Every pawnbroker, at the time of the taking of every pledge whatsoever, must give to the party pledging a note or memorandum fairly and legibly written or printed, or in part written and in part printed, containing therein in like manner a description of the goods and chattels which he has received in pawn, and also the sum of money advanced thereon, with the day of the month and year on which, and the name and place of abode and number of the house (if said to be numbered) of the person or persons by whom, such goods or chattels are pledged, and whether

such person is a lodger or housekeeper as aforesaid, by using the letter "L," if a lodger, and the letter "H," if a housekeeper, and also the name and place of abode of the owner thereof, according to the information aforesaid; and upon which said note or memorandum, or on the back thereof, shall be moreover fairly written or printed the name and place of abode of the pawnbroker giving the same; which said note or memorandum the party pledging is required to accept and take in all cases; and the pawnbroker shall not receive and retain such pledge, unless the party pledging shall accept and take such note or memorandum. Every such note, where the sum lent shall be less than 5s., shall be delivered *gratis*; and where the sum lent shall be 5s. or upwards, and less than 10s., the pawnbroker may take one $\frac{1}{2}d.$ for the same; and where the sum lent shall be 10s. or upwards, and less than 20s., he may take 1d.; where the sum lent shall be 20s. or upwards, and less than 5*l.*, the sum of 2*d.*; and where the sum lent shall be 5*l.* or upwards, the sum of 4*d.*, and no more. This note must be produced to the pawnbroker before the party can redeem them.

Penalty for unlawfully pawning Goods.—By *sect. 8*, if any person shall knowingly and designedly pawn, pledge, or exchange, or unlawfully dispose of the goods or chattels of any other person, not being employed or authorized by the owner thereof so to do, a justice may grant his warrant to apprehend the offender, and if convicted by the oath of one credible witness before one justice, penalty, not exceeding 5*l.*, nor less than 20s., and also the full value of the goods, to be ascertained by such justice; and in case of non-payment, commitment to hard labour, not exceeding three calendar months; and if, within three days before the expiration of the commitment, the forfeitures shall not be paid, the justice may order the offender to be publicly whipped. The forfeitures are to be applied towards making satisfaction thereout to the party injured, and defraying the costs of the prosecution, as shall be adjudged reasonable by the justice; but if the party injured shall decline to accept of such satisfaction, or if there shall be any overplus, it shall be paid to the overseers for the use of the poor.

Pawning manufacturing Materials, &c.—By *sect. 11*, if any person shall knowingly buy, or take as a pledge or pawn, or in exchange, any goods of any manufacture, or of any part or branch of any manufacture, either mixed or separate, or any materials whatsoever plainly intended for the composing or manufacturing of any

goods, after such goods or materials respectively are put into a state of manufacture, or into a state of any process or operation to be thereupon or therewith performed, and before such goods or materials are completed or finished for the purposes of wear or consumption, or any linen or apparel which shall be intrusted to any person to wash, scour, iron, mend, manufacture, work up, finish, or make up, and shall be convicted of the same on the oath of one credible witness before one justice, he shall forfeit double the sum given for or lent on the same, to be paid to the poor of the parish where the offence is committed, and to be recovered in the manner above mentioned, and he shall likewise be obliged to restore the goods to the owner in the presence of such justice.

Searching for Goods unlawfully pawned.—By sect. 12, if the owner of any such goods or materials, linen or apparel, shall make out, either on his oath, or on that of any credible witness, before any justice, that there is just cause to suspect that any person hath taken the same to pawn, or by way of pledge, or in exchange, without the privity or authority of such owner, the justice may issue his warrant for searching, within the hours of business, the house, warehouse, or other place of any such person; and if the occupier shall, on request made to him by any peace officer authorized to search there by warrant from any justice, refuse to open the same, and permit the same to be searched, the officer may break open any such house, warehouse or other place, within the hours of business, and search as he shall think fit therein for the articles suspected to be there, doing no wilful damage; and no pawnbroker, or other person, shall oppose or hinder any such search. If, upon such search, any of the articles shall be found, and the property of the owner shall be made out to the satisfaction of the justice, by the oath of one credible witness, the justice shall thereupon cause the same to be forthwith restored to the owner.

By sect. 13, if the owner of any goods or chattels unlawfully pawned, pledged, or exchanged, shall make out either on his oath, or by the oath of any credible witness, before any justice, that such owner hath had his goods unlawfully obtained or taken from him, and that there is just cause to suspect that any person hath taken the same to pawn, or by way of pledge, or in exchange, without his privity or authority, the justice may grant a search warrant which may be executed, and the goods restored to the owner in the same manner as is provided by the preceding section.

Compelling restoration of Goods unlawfully pawned.—By 2 & 3 Vict. c. 71, s. 28, reciting that doubts had arisen, whether goods unlawfully deposited, pledged, pawned, or exchanged, may be restored to the owner in cases of summary conviction, or where the goods are produced without the issue of any search warrant, it is enacted that any magistrate may order that any goods unlawfully pawned, pledged, or exchanged, which shall be brought before him, and the ownership of which shall be established to the satisfaction of such magistrate, shall be delivered up to the owner by the party with whom they were so unlawfully pawned, either without compensation, or with such compensation to the party in question as the magistrate may think fit.—This act was passed to regulate the police courts in the metropolis; but the above section, from the wording of it, appears to be of general application.

Penalty for forging a Pawnbroker's Ticket.—By 39 & 40 Geo. 3, c. 99, s. 9, if any person shall counterfeit, forge, or alter, or cause or procure, &c. any note or memorandum required to be given by the act, or shall utter, vend, or sell any such note, knowing the same to be counterfeited, forged, or altered, with intent to defraud any person, he may be seized and detained by any person, or his servants or agents, to whom any such note shall be uttered or produced, shown or offered, which he shall have reason to suspect to have been counterfeited or altered, and delivered by him into the custody of a constable or other peace officer to be conveyed before a justice, who, upon conviction, is required to commit the party offending to the common gaol or house of correction not exceeding three calendar months.

Giving false or unsatisfactory information at time of Pawning.—By sect. 10, in case any person who shall offer by way of pawn, pledge, exchange, or sale, any goods or chattels, shall not be able, or shall refuse, to give a satisfactory account of himself, or of the means by which he became possessed of such goods, or shall wilfully give any false information to the pawnbroker, or to his servant, as to whether such goods are his own property, or not, or of his name and place of abode, or of the name and place of abode of the owner of the said goods; or if there shall be any other reason to suspect that such goods are stolen, or otherwise illegally or clandestinely obtained; or if any person not entitled, nor having any colour of title, by law, to redeem goods in pledge or pawn, shall attempt or endeavour to redeem the same, any person, his servants or agents, to whom such

goods shall be so offered, or with whom the same are in pledge, may seize and detain the party and the goods, and deliver him immediately into the custody of a constable, who is required to convey him and the goods before some justice; and, if upon examination and inquiry he shall have cause to suspect that the goods were stolen or illegally or clandestinely obtained, or that the party shall not have any pretence or colour of right to redeem the same, the justice may commit him into safe custody, for such reasonable time as shall be necessary for obtaining proper information on the subject in order to be further examined; and if, upon either of the said examinations, it shall appear to the satisfaction of the justice that the goods were stolen or illegally or clandestinely obtained, or that the party had not any pretence or colour of right to redeem the same, the justice may commit him to the common gaol or house of correction, there to be dealt with according to law, where the nature of the offence shall authorize such commitment by any other law, and where not, then such commitment shall be for any time not exceeding three calendar months.

Penalty on Pawnbrokers not restoring Goods.—By sect. 14, if any goods or chattels shall be pawned or pledged for securing any money lent thereon, not exceeding 10*l.* and the profit thereof, and if, within one year after the pawning or pledging thereof, (proof having been made on oath by one witness, and by producing the pawnbroker's ticket, to the satisfaction of any justice, of the pawning or pledging of any such goods within the space of one year, or other period limited by the act,) any such pawner, who was the real owner of the goods at the time of pawning thereof, shall tender unto the person who lent on the security of the goods the principal money borrowed thereon, and profit according to the table of rates established by the act, and the pawnbroker shall thereupon, without showing reasonable cause (y) for so doing to the satisfaction of the justice, neglect or refuse to deliver back the goods, for any sum not exceeding the principal sum of 10*l.*, to the borrower, then on oath thereof made by the pawner, or some other credible person, any justice, on the application of the borrower, is required to cause the pawnbroker to come before him and to examine on oath the parties themselves, and such other credible persons as shall appear before him; and if tender of the

(y) A pawnbroker is bound to observe more than ordinary care over the goods pledged with him, and if they be taken out of his possession by stealth, or from want of due care, he will be liable; but

not if they are forcibly taken out of his possession, unless through his fault; *Coggs v. Barnard*, *Ld. Raym.* 917; *Sir W. Jones*, 75, 79.

principal money due, not exceeding 10*l.*, and all profit thereon, shall be proved by oath to have been made to the lender by the borrower within the period above mentioned, then, on payment by the borrower of such principal money and the profit due thereon to the lender,—and in case the lender shall refuse to accept thereof, on tender thereof to him made by the borrower before the justice,—such justice shall thereupon by order under his hand direct the goods to be delivered up to the pawner; and if the pawnbroker shall neglect or refuse to deliver up or make satisfaction for the goods as the justice shall direct, then the justice is required to commit him until he shall deliver up the goods so pawned, or make such satisfaction or compensation, as the justice shall adjudge reasonable, for the value thereof to the party entitled to the redemption of the goods.

How Goods forfeited to be sold.]—By *sect. 17*, all goods pawned shall be deemed forfeited, and may be sold, at the expiration of one whole year, exclusive of the day whereon they were pawned; and all goods so forfeited, on which any sum above 10*s.*, and not exceeding 10*l.*, shall have been lent, shall be sold by public auction, and not otherwise, by the order of the pawnbroker; but the auctioneer must cause the same to be exposed to public view, and catalogues thereof to be published containing the name and place of abode of the pawnbroker, and also the month such goods were received in pawn, and the number of every such pledge, as entered in the book kept for that purpose at the time the same were pawned, and an advertisement giving notice of such sale and containing the name and place of abode of the pawnbroker, and also the month such goods were received in pawn, to be inserted two several days in some public newspaper two days at least before the first day of sale; and the goods and chattels pledged with every pawnbroker shall be inserted in every catalogue, separate and apart from each other; upon pain of forfeiting to the owner of the goods for every offence in the premises, not exceeding 10*l.*, nor less than 40*s.*

Pictures, Prints, &c.]—By *sect. 18*, all pictures, prints, books, bronzes, statues, busts, carvings in ivory and marble, cameos, intaglios, musical, mathematical, and philosophical instruments, and china, must be sold by themselves four times a year; and the auctioneer is required to cause the same to be exposed to public view, and the catalogues published, and an advertisement of the sale containing the name of the pawnbroker inserted two several days in some newspaper, three days at least before the first day of sale; upon pain of

forfeiting to the owner of the goods for every offence not exceeding 5*l.*, nor less than 40*s.*

When further Time allowed for Redemption.—By sect. 19, if the person entitled to redeem the goods shall, before the expiration of the year from the time of pawning, give notice, in writing, or in the presence of one witness, to the pawnbroker not to sell at the end of the year, then they cannot be sold until three calendar months from the end of the year; during which time the owner may redeem them.

But it has been decided, that if the owner tender the principal and interest, at any time before the actual sale of the goods, the pawnbroker has in that case no right to sell them (z).

Penalty for not paying Overplus of Sale to the Pawner.—By sect. 20, every pawnbroker is required to enter in a book a true and just account of the sale of all goods pawned with him for upwards of 10*s.*, expressing the day of the month when such goods were pledged, and the name of the person pledging the same, according to the entry made at the time of receiving the same in pawn, and also the day when, and the money for which, such goods were sold, together with the name and place of abode of the auctioneer; and in case any such goods shall be sold for more than the principal money and profit due thereon, the overplus shall be paid, on demand, to the person by whom, or on whose account, such goods were pawned, in case such demand shall be made within three years after the sale, the necessary costs and charges of such sale being first deducted; and the pawner shall, for his satisfaction, be permitted to inspect the entry of every such sale, paying one penny for such inspection. In case any person shall refuse to permit the pawner, or the party entitled to such overplus, to inspect the entry in any such book; or in case the goods were sold for more than the sum entered in such book; or if any such person shall not make such entry, or shall not have *bonâ fide* sold the goods according to the directions of the act, or shall refuse to pay such overplus, upon demand, to the pawner or owner; the offender forfeits 10*l.* and treble the sum the goods were pawned for to the pawner, to be levied by distress.

Prohibition from doing certain acts.—By sect. 21, no person having any goods in pledge shall, under any pretence whatsoever, either by himself, or by any other person, purchase any such goods, during the time the same shall remain in his custody, except at public

auction; nor shall suffer the same to be redeemed, with intention to purchase the same; nor shall make, or cause to be made, any contract or agreement with the owner, for the purchase, sale, or disposition of the goods, before the expiration of one whole year from the time of pawning the same; nor shall any pawnbroker purchase, or receive, or take any goods in pledge from any person who shall appear to be under the age of twelve years, or to be intoxicated with liquor; or purchase or take in pawn, pledge, or exchange the note or memorandum of any other pawnbroker; nor buy any goods in the course of his trade, before the hour of eight in the forenoon, or after seven in the evening; nor employ any servant or apprentice, or any other person, under the age of sixteen years, to take in any pledge; nor receive or take in any goods by way of pawn, pledge, or in exchange, before eight in the forenoon, or after eight in the evening, between Michaelmas Day and Lady Day,—or before seven in the forenoon, or after nine in the evening, during the remainder of the year,—excepting only until eleven o'clock on the evenings of Saturday, and the evenings preceding Good Friday and Christmas Day, and every public fast or thanksgiving day; nor shall any person exercise or carry on the business of a pawnbroker on any Sunday, Good Friday, Christmas Day, or any public fast day or thanksgiving day.

Table of Profits to be placed in view.—By sect. 22, every pawnbroker must cause to be painted or printed in large legible characters the rate of profit allowed by the act to be taken by him, and also the various prices of the notes or memorandums to be given by him, according to the rates specified in the act, and an account of what notes or memorandums are to be delivered *gratis*, and of the expense of obtaining a second note or memorandum where the former one has been lost, mislaid, destroyed or fraudulently obtained, which must be placed in a conspicuous part of his shop, so as to be visible to, and legible by, the persons pledging goods, standing in the several boxes or places provided for such persons coming to pawn or redeem goods.

Name to be put up over Shop.—By sect. 23, every pawnbroker must cause to be painted or written in large legible characters over the door of his shop his christian and surname, under the penalty of 10*l.* for every shop or place made use of for the space of one week, without having such name so painted or written, to be recovered by distress by the warrant of two justices, upon the oath of one witness; in default of distress, commitment not exceeding three calendar months, nor less than fourteen days.

Selling Goods before time limited, or damaging them.—By sect. 24, if it shall be proved upon oath before one justice, that any goods pawned have been sold before the time allowed by the act, or otherwise than before directed, or have been embezzled, or lost (*a*), or are become of less value than they were at the time of pawning, through the default, neglect, or wilful misbehaviour (*b*) of the pawnbroker, or his servants; the justice may award a reasonable satisfaction to the owner, and the sum so awarded, in case it shall not amount to the principal and profit due to the pawnbroker, shall be deducted therefrom. And in all cases where the goods pawned are damaged, it is sufficient for the pawner to pay or tender the money due upon the balance, after deducting out of the principal and profit such reasonable satisfaction in respect of such damage as any justice shall award; and upon so doing, the justice shall proceed, as if the pawner had paid or tendered the whole money due for the principal and profit. If the satisfaction awarded to the owner shall be equal to or exceed the principal and profit, then the pawnbroker must deliver the goods to the owner, without being paid anything for principal or profit, and must also pay any excess; under the penalty of 10*l.* (*c*)

Production of Books.—By sect. 25, upon complaint made to any justice, on the oath of one credible witness, wherein any information shall be laid against any pawnbroker for having offended against the act, or respecting any dispute between any pawnbroker and person having pawned goods, or the owner of goods pawned, or respecting any felony, or other matter, or on any other occasion whatsoever, which in the judgment of the justice shall make the production of any book, note, voucher, memorandum, duplicate or other paper necessary, which ought to be in the custody of any pawnbroker, the justice may summon such pawnbroker before him to attend with every such book, &c. relating to the same, which he is required to produce in the same state as it was when the pawn or pledge was received, without any alteration, erasement or obliteration whatsoever; under a penalty not exceeding 10*l.*, nor less than 5*l.*

(*a*) It seems doubtful, whether a pawnbroker is answerable for pledges destroyed by accidental fire, as for goods "lost" within the above section; *Ex parte Cording*, 4 B. & Ald. 198.

(*b*) These words "through the default, &c." apply to all the cases previously mentioned in the above section, and are not confined to that of the goods becoming

of less value; *ibid.*

(*c*) It seems that the justices have no power, for offences under this section, to commit the party, in case he makes default in payment of the satisfaction awarded, as they have for any default under the 14th section; *Ex parte Cording*, 4 B. & Ald. 198.

Recovery and Application of Penalties.—By sect. 26, in case any pawnbroker shall *offend against the act*, he shall, for every such offence in neglecting to make in a fair and regular manner any such entry as before required, forfeit not exceeding 10*l.*—and for *every other offence*, where no forfeiture or penalty is imposed, not less than 40*s.*, nor more than 10*l.*,—to be levied by distress, half to be paid to the party complaining, and half to the overseers of the poor.

Whatever is prohibited by the act falls within the general words of this clause. Therefore, the taking more than the rate of profit specified by the second and third sections of the act is an *offence against the act*; and, no particular penalty being provided for that transgression, the party offending is liable to the penalty imposed by the twenty-sixth section (*d*).

Limitation of Prosecutions.—By sect. 27, all prosecutions must be commenced within twelve calendar months after the offence committed, and must be before some justice near to the place where the offence shall have been committed, unless the same shall have been committed within the city and liberties of London.

When Churchwardens, &c. required to prosecute.—By sect. 28, the churchwardens and overseers of any parish or place, wherein any offence shall be supposed to have been committed by any pawnbroker, or some or one of them to be nominated by a justice, on having notice from him of such offence, are required to prosecute the offender for every offence suggested by the justice to have been committed, at the expense of the parish.

Disability of convicted Persons.—By sect. 29, no person, who has been convicted of any fraud, or of obtaining money under false pretences, or of any felony whatsoever, shall be allowed to prosecute or inform against any person for any offence.

Liability of Pawnbroker's Executors.—By sect. 31, the act is declared to extend to the executors, administrators, and assigns of every deceased pawnbroker, in the same manner as to the pawnbroker himself, except that no such executor shall be answerable personally for any penalty, nor shall the same be paid out of his own estate, unless incurred by his own act or neglect.

Witnesses, &c.—By sect. 33, the inhabitants of any place where the offence is committed are declared to be competent witnesses.

But there is no provision in this act, as there was in the 30 Geo. 2, c. 24, s. 16, for compelling the attendance of witnesses. This last mentioned act, though never expressly repealed, appears to be superseded by the numerous subsequent statutes on the same subject.

By *sect. 34* a general form of conviction is given, which must be written on parchment, and returned to the next quarter sessions, and which cannot be removed by *certiorari*; but an *appeal* is given to the next sessions.

Declaration may be made, instead of an Oath.]—By 5 & 6 Will. 4, c. 62, s. 12, where by any act for regulating the business of pawnbrokers, any oath, affirmation, or affidavit is required to be taken or made by any person, he may, in lieu thereof, make and subscribe a *declaration* to the same effect; and all the penalties imposed by any such act, as to any oath, affirmation, or affidavit, shall extend and apply to any declaration in lieu thereof.

1. *Information against a Pawnbroker, under the 39 & 40 Geo. 3, c. 99, s. 22 (d), for not exhibiting a Table of Interest.*

Middlesex, } Be it remembered, that on the — day of —, in the year of our
to wit. } Lord 1842, at — in the county aforesaid, A. B. of —, cometh before me, J. P., esquire, one of her Majesty's justices of the peace in and for the county aforesaid, and acting near (e) the place where the offence hereinafter mentioned was committed, and giveth me to understand and be informed, that C. D. of —, within twelve calendar months before the exhibiting of this information, to wit, on the — day of —, in the year aforesaid, and from thence until and at the time of exhibiting this information, did follow and carry on the trade and business of a pawnbroker, at and in a certain shop in and parcel of a certain dwelling-house situate and being in — in the county aforesaid: Nevertheless the said C. D., not regarding the statute in such case made and provided, did not nor would, whilst he so followed and carried on the said business as aforesaid, cause to be painted or printed in large legible letters the rate of profit allowed by the said statute to be taken by him the said C. D., and also the various prices of the notes or memorandums to be given by him, according to the rates allowed by the said statute, and an account of what notes or memorandums were to be delivered gratis, and of the expense of obtaining a second note or memorandum where the former one had been lost, mislaid, or destroyed, or fraudulently obtained, nor place the same in a conspicuous part of the said shop wherein he so carried on such trade or business, so as to be visible to and legible by the persons pledging goods and chattels, standing in the places provided for such persons coming to pawn or redeem goods and chattels at the said shop; but, on the contrary thereof, the said C. D., during the time aforesaid, wholly neglected and omitted so to do, against the form of the statute in such case made and provided; whereby and by force of the said statute, the said C. D. hath forfeited for his said offence a penalty of not less than 40s., nor more than 10l. (f), in the discretion of me the said justice; And thereupon the

(d) See *ante*, p. 645.

(f) See *sect. 26, ante*, p. 647.

(e) See *sect. 27, ante*, p. 647.

said A. B. prays that the said C. D. may be summoned to answer the said information, and to be further dealt with according to law.

2. *Information against a Pawnbroker, under the 23d sect., for not having his Name and Description over the Door (g).*

Commencement as in form No. 1.]—did not, nor would, whilst he so carried on the business as aforesaid, cause to be painted or written in large legible characters over the door of the said shop, by him during the time aforesaid made use of for carrying on the said trade or business of a pawnbroker, the christian and surname of him the said C. D., and the word “Pawnbroker” following the same, according to the form and effect of the statute in that case made and provided; but, on the contrary thereof, he the said C. D., to wit, on &c., and from thence for the space of one week and upwards then next following, made use of the said shop for carrying on the said trade and business of a pawnbroker, without having such christian and surname of him the said C. D., and the word “Pawnbroker,” so painted or written as aforesaid, contrary to the form and effect of the said statute; whereby, and by force of the said statute, the said C. D. hath forfeited for his said offence the sum of 10*l*. And thereupon, &c. [*to the end as in form No. 1.*]

3. *Information against a Pawnbroker, under sect. 21, for taking Pledges of a Child under Twelve Years of Age (h).*

Commencement as in form No. 1.]—that within twelve calendar months before the exhibiting of this information, to wit, on the — day of —, in the year of our Lord 1842, at the parish of — in the county aforesaid, one C. D. of &c., (he the said C. D. then and there being a person using and exercising the trade and business of a pawnbroker), did unlawfully receive and take in pledge a certain woollen shawl of and from one E. F., she the said E. F. then and there being and appearing to be under the age of twelve years, against the form of the statute in such case made and provided; whereby the said C. D. for his said offence hath forfeited a penalty not less than 40*s*., nor more than 10*l*., of lawful money of Great Britain, to be applied as the said statute directs; all which the said A. B. is ready to prove before me, the said justice, by a credible witness, when the said C. D. shall be summoned to make his defence touching the same: Wherefore the said A. B. prays that the said C. D. may be summoned to appear before me to answer the said information, and to be further dealt with according to law.

4. *Conviction of a Pawnbroker, under sect. 6, for taking a Pledge, without giving a Ticket, where the Goods were pawned in an assumed name (i).*

Middlesex, } Be it remembered, that on this — day of —, in the year of our
to wit, } Lord 1842, C. D. of the parish of — in the county of Middlesex,
pawnbroker, is convicted before me, J. P., esq., one of her Majesty's justices of the peace
in and for the said county, for that, on the — day of — last, in the parish aforesaid
in the county aforesaid, the said C. D., being a person then and there using the trade and
business of a pawnbroker, did then and there take of and from one A. B., in the name
of E. F., by way of pledge, certain goods and chattels, to wit, [*describe the goods*] upon

(g) See *ante*, p. 645.

(h) See *ante*, p. 644.

(i) This form of conviction is given by
the 34th sect.

which the said C. D. then and there lent and advanced the sum of — shillings; and although the said A. B., at the time he pawned the said goods and chattels, informed the said C. D. that his name was E. F., and that he lived in — street, yet the said C. D. did not, at the time of taking the said pledge, give to the said A. B. a note or memorandum fairly and legibly written or printed, or in part written and in part printed, containing therein a description of the said goods which he the said C. D. had so received in pawn, and also the place of abode of the person by whom such goods were pawned, according to the information given by the said A. B. to the said C. D. at the time of such pawning as aforesaid, according to the form of the statute in such case made and provided. I, the said justice, do therefore adjudge the said C. D. to pay and forfeit for the same the sum of £ — [not less than 40s., nor more than 10l.] of lawful money of Great Britain; And I do award, that out of the said sum of £ — so forfeited as aforesaid, the sum of £ —, being one moiety of the said sum of £ —, be paid to G. S. the party complaining in this behalf; and that the sum of £ —, being the remaining moiety of the said sum of £ — so forfeited as aforesaid, be paid and applied as the law directs. Given under my hand and seal at — in the county aforesaid, the day and year first above written (j).

5. *Conviction, under sect. 2, for taking more than legal Interest.*

Middlesex, } Be it remembered, that on this — day of —, in the year of our
to wit. } Lord 1842, C. D. of the parish of — in the county of Middlesex,
pawnbroker, is convicted before me, J. P., esquire, one of her Majesty's justices of the
peace in and for the county of Middlesex, for that on the — day of —, in the
year of our Lord 1842, at the parish aforesaid in the county aforesaid, he the said C. D.,
who then and there used and exercised the trade and business of a pawnbroker, did
lend and advance unto one A. B. the sum of 1s. 6d. upon the pledge of certain goods
and chattels, to wit, two silver tea spoons, then and there pledged and pawned by the
said A. B. with the said C. D., as such pawnbroker as aforesaid; and that the said
C. D. afterwards, and within the space of twelve calendar months before the informa-
tion exhibited by the said A. B. in this behalf, and within the space of seven days (k)
after the expiration of the first calendar month after the said tea spoons were so pledged
as aforesaid, to wit, on the — day of —, in the year aforesaid, at the parish and
county aforesaid, did demand, receive, and take of and from the said A. B., on his re-
deeming the said pledge, the sum of one penny of lawful money of Great Britain, as
for and by way of profit upon the said sum of 1s. 6d. so lent and advanced by the said
C. D. upon the said pledge as aforesaid; the said sum of one penny, so demanded, re-
ceived and taken as aforesaid, being more than at and after the rate of one halfpenny
for the loan of any sum not exceeding 2s. 6d. by the calendar month, and being a
greater profit than he the said C. D. was then and there entitled to, and ought to have
demanded, received and taken in that behalf, contrary to the form of the statute in
such case made and provided. And I the said justice do therefore adjudge the said
C. D. to pay and forfeit, &c. [as in form No. 4 to the end.] Given under my hand
and seal the day and year first above written. *

(j) This form of conviction is somewhat fuller than the general form given by sect. 34; for that awards no distribution whatever of the penalty, half of which, by sect.

26, goes to the complainant, and half to the overseers for the use of the poor.

(k) See sect. 5, ante, p. 637.

6. *Information against a Pawnbroker, under sect. 6, for not giving a Note legibly written, describing the thing pawned (l).*

Surrey, } Be it remembered, that on the — day of —, in the year of our Lord
to wit. } 1842, at —, A. B. of — cometh before me, J. P., esquire, one of her
Majesty's justices of the peace in and for the county of Surrey, acting near the place
where the offence hereinafter mentioned was committed, and giveth me to understand
and be informed, that C. D. of —, being then and there a pawnbroker, did take, by
way of pawn and pledge, of and from E. F. of — a certain metal watch, whereon
the sum of 7s. was then and there advanced and lent by the said C. D. to the said E. F.
Nevertheless the said C. D., not regarding the statute in such case made and provided,
did not nor would, at the time of taking the said pawn and pledge, give the said E. F.
a note or memorandum fairly and legibly written or printed, or in part written and in
part printed, containing therein a description of the said watch, which he the said C. D.
so received in pawn and pledge, and also the sum of money advanced thereon, with
the day of the month and year on which, and the name and place of abode of the said
E. F. by whom, the said watch was so pawned and pledged as aforesaid, and whether
the said E. F. was a lodger or housekeeper, according to the form and effect of the
statute in that behalf; but on the contrary thereof, although the said C. D., at the
time of taking the said pledge as aforesaid did give to the said E. F. a certain note or
memorandum, as and for such note and memorandum as aforesaid, yet the said watch,
or the name and place of abode of the said E. F., and whether he was a lodger or
housekeeper as aforesaid, were not fairly and legibly written and printed, or in part
written and in part printed, in or upon the said note or memorandum so given by the
said C. D. to the said E. F. as aforesaid; contrary to the form and effect of the said
statute in that behalf, whereby and by force of the said statute, &c. [as in form No. 1.]

7. *Information, under sect. 11, for receiving in pawn Goods in a state of Manufacture (m).*

Lancashire, } Be it remembered, &c. [as in the last precedent] that C. D. of —,
to wit. } within the space of twelve calendar months now last past, to wit, on
the — day of —, in the year aforesaid, at the parish of — in the county afore-
said, he the said C. D. then and there using and exercising the trade and business of a
pawnbroker, did unlawfully take in as a pledge and pawn from one A. B. of &c.,
divers materials plainly intended for the composing and manufacturing of cotton goods,
that is to say, twenty pounds weight of cotton wool, and twenty reels of cotton yarn,
after the same were respectively put into a state and course of manufacture, and before
the same were completed and finished for the purposes of wear and consumption;
which said materials so taken in pledge as aforesaid were entrusted to the said A. B. to
manufacture and work up into cotton twist, and upon which said materials the said
C. D. then and there lent unto the said A. B. the sum of 10s., contrary to the form of the
statute in that case made and provided; whereby and by force of the said statute, the
said C. D. hath forfeited for his said offence the sum of 20s., being double the sum
lent on the said materials, and is also compellable to restore the said materials unto
E. F., the owner thereof. And thereupon the said E. F. prays that the said C. D. may
be summoned, &c. [as in form No. 1.]

(l) See *ante*, p. 638.

(m) See *ante*, p. 639.

8. *Information, under sects. 24 and 26, for selling Pledges before the time limited by the Statute (n).*

Lancashire, } Be it remembered, &c. [as in form No. 1] that C. D. of — in the
to wit. } county aforesaid, on the — day of —, in the year aforesaid, at
the parish of — in the county aforesaid, he the said C. D. being then and there a
person using and exercising the trade and business of a pawnbroker, did receive and
take from one A. B., in pawn and pledge for the sum of 2*l.*, a certain silver watch of
him the said A. B. of the value of 5*l.*; and that he the said C. D., before the time
limited in that behalf by the statute in that case made and provided, and within the
space of twelve calendar months now last past, to wit, on the — day of —, in the
year aforesaid, at the parish aforesaid in the county aforesaid, did sell the said watch,
and cause the same to be sold, contrary to the form of the statute in such case made
and provided; whereby and by force of the said statute the said A. B. prays of me the
said justice to allow and award a reasonable satisfaction to him the said A. B., the
owner of the said watch, in respect thereof; and thereupon the said A. B. prays that
the said C. D. may be summoned, &c. [as in form No. 1.]

9. *Order, under sect. 13, to restore pawned Goods supposed to have been feloniously stolen.*

Middlesex, } To W. S. a constable and officer of the peace for the county of Mid-
to wit. } dlesex, and to W. P. and J. R. of Liquorpond Street in the county of
Middlesex, Pawnbrokers, and whom else these may concern.

Whereas on the 10th day of December, in the year of our Lord 1820, at the public
office Bow Street, in the parish of Saint Paul Covent Garden in the county of Middle-
sex, J. H. of Serle Street in the parish of Saint Clement Danes in the county of Mid-
dlesex, silversmith, in his proper person came before me, R. B., esquire, one of her
Majesty's justices of the peace in and for the said county, and upon his oath duly ad-
ministered to him in that behalf, informed me, the said justice, that R. M., J. M., and
himself the said J. H., on the — day of —, in the year aforesaid, at the parish
last aforesaid, carried on in partnership together the business of silversmiths, and that
the following goods and chattels belonging to them and of which they are the owners,
that is to say, one silver milk pot, four silver table forks, &c. [*describing all the stolen
goods*] had been unlawfully obtained and taken from them the said R. M., J. M., and
J. H. on the day and year last aforesaid, at the parish and county last aforesaid;
and that the said J. H. had just cause to suspect, and did suspect, that the said W. P.
and J. R., within the jurisdiction of me the said justice, had taken to pawn and by way
of pledge the said goods and chattels of them the said R. M., J. M., and J. H., without
the privity or authority of the said R. M., J. M., and J. H. or any or either of them,
they being the owners of the said goods and chattels; and whereas the said J. H. did,
on the day and year first aforesaid, at the public office aforesaid, make appear to the
satisfaction of me, the said justice, probable grounds for such the suspicion of him the
said J. H., one of the owners of the said goods and chattels; whereupon I, the said jus-
tice, did issue my warrant for searching within the hours of business the house and
warehouse of the said W. P. and J. R., the persons so charged on oath as aforesaid, as
suspected to have received and taken in pawn the said goods and chattels, without the

privity or authority of the said owners thereof; and whereas the said W. S., a constable and officer of the peace for the county aforesaid, afterwards, to wit, on the — day of —, in the year aforesaid, in pursuance of and according to my said warrant, did search the house and warehouse of the said W. P. and J. R., wherein the said goods and chattels were so charged and suspected to be, and the said goods and chattels were upon such search found in the said house and warehouse; and whereas on this — day of —, in the year aforesaid, at the public office aforesaid, in the county aforesaid, the said goods and chattels, which had been so pawned and pledged, and found upon such search as aforesaid, have been brought before me, the said justice, by the said W. S.; and the property of them the said R. M., J. M., and J. H., as the owners of the said goods and chattels, from whom the same had been unlawfully obtained and taken as aforesaid, is now made out to the satisfaction of me the said justice, by the oath of a credible witness, in the presence and hearing of the said W. P. and J. R.: Now I, the said justice, do hereby order and direct the said goods and chattels so found upon the said search, and so pawned and pledged as aforesaid, to be forthwith restored to the said R. M., J. M., and J. H., the owners thereof; and I have caused the same to be restored accordingly. Given under my hand and seal at the public office in Bow Street in the said county, the day and year last above written (o).

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Pedlars—See Pawnbrokers and Pedlars.

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Penitentiary.

FRAUDS of Officers.—By 56 Geo. 3, c. 63, s. 12, if any officer, servant, or other person employed in the Penitentiary at Milbank, shall be guilty of a false entry, omission, fraud, or collusion, he is punishable, on conviction at the quarter sessions, with fine and imprisonment, or either of them, at the discretion of the court.

Rescuing Convicts, &c.—By sect. 44, if any person shall rescue any convict who shall be ordered to be confined in the Penitentiary, either during the time of his conveyance there, or whilst he shall be in the custody of the person under whose care and charge he shall be so confined, or if any person shall be aiding and assisting in such rescue; *Felony, confinement in the Penitentiary not less than one year, nor exceeding five years.*

By the same section, if any person having the custody of such convict, or being employed by such person as a keeper, under keeper,

(o) In the above case the goods had been feloniously stolen from the applicants by one of their servants, and then pawned by him, and the justices doubted their jurisdiction to make the order; but counsel

eminent in the law being consulted, the above order was made, and obeyed by the pawnbrokers, without further question. Paley on Convictions, Deacon's edition, p. 520.

turnkey, assistant, or guard, shall *voluntarily* permit such convict to escape; or if any person shall, by supplying arms, tools, or instruments of disguise, or otherwise be in any manner aiding or assisting to such convict in any escape, or any attempt to escape, though no escape be actually made; or shall attempt to rescue any such convict, or be aiding and assisting in any such attempt, though no rescue be actually made; *Felony*.

And if any person having such custody, or being employed by him as above, shall *negligently* permit any such convict to escape; *Misdemeanor, fine or imprisonment, or both*.

Convicts breaking Prison, &c.—By 59 Geo. 3, c. 136, s. 17, if any convict, during the term of his confinement, shall break prison, or escape from the place of his confinement, or in his conveyance there, or from the person having the lawful custody of him; he is liable to be punished by an addition, not exceeding three years, to the term of his imprisonment; and for a *second* offence, he is guilty of *Felony, punishable (by 7 Will. 4 & 1 Vict. c. 91, s. 1 and 2) with Transportation for life, or not less than fifteen years, or imprisonment not exceeding three years, with or without hard labour, and solitary confinement not exceeding one month at any one time, nor three months in any one year*.

And if any convict shall *attempt* to break prison or escape, or shall forcibly break out of his cell, or shall make any breach therein, with intent to escape therefrom, he is liable to be punished by an addition, not exceeding six calendar months, to the term of his imprisonment.

Supplying Convicts with any Articles, &c.—By 59 Geo. 3, c. 136, s. 13, no officer or servant of the Penitentiary, nor any other person, shall supply or bring in to any of the convicts any money, clothing, provisions, diet, or other article or thing whatsoever, or any spirituous or other liquors whatsoever, except what the governor shall permit or direct, and except such diet and liquors as the surgeon or apothecary shall order in case of illness. No officer or servant, or other person, shall clandestinely, or otherwise than according to the rules and regulations of the Penitentiary, bring into or carry out from any convict, any letter or paper, under the penalty,—if an officer or servant, of the forfeiture of his office, and, on conviction before a justice, of a fine not exceeding 10*l.*,—and if not an officer or servant, to forfeit not exceeding 5*l.*, nor less than 40*s.* By *sect. 20*, this penalty is recoverable under the provisions of the 56 Geo. 3, c.

63, s. 48, before two justices, by the oath of one witness; one half to go to the use of the Penitentiary, and the other to the informer, to be levied by distress; for want of which to be sent to the prison of the county, not exceeding six months, nor less than one.

Assaulting the Governor, &c.—By 7 & 8 Geo. 4, c. 33, s. 1, if any convict shall assault the governor, or any officer or servant, he may be prosecuted for the offence, and on conviction, is liable to be confined in the Penitentiary not exceeding two years, in addition to the term of his imprisonment, and to be publicly or privately whipped.

Infliction of corporal Punishment.—By sect. 2, the committee of the Penitentiary may from time to time specify by a regulation such offences as shall appear to them deserving of corporal punishment, which are to be submitted for the sanction of the judges of the King's Bench. And if, after such sanction, any male convict shall commit any offence, whereby he shall, under such regulation, become liable to corporal punishment, the governor may report such offence to any justice, who shall as soon as convenient repair to the Penitentiary, and shall inquire into the offence, and if, upon proof of the same, he shall be of opinion, that, under the regulation referred to, it is deserving of corporal punishment, he may order the offender to be publicly or privately whipped.

Pensions—See *Army and Navy Pensions*.

Person, Stealing from—See *Robbery*.

Perjury.

THE crime of *Perjury* is a *misdemeanor* at common law, but it is not cognizable by justices of the peace at the quarter sessions. A magistrate has, however, the same power to commit a party for trial for this offence, as in the case of other misdemeanors, though the better practice is not to grant a warrant to apprehend the offender, until an indictment has been found against him.

Warrant to apprehend and commit a Party indicted for Perjury.

Middlesex, } To the constable of — in the said county, and to the keeper of the
to wit. } common gaol at — in the said county.

Forasmuch as a true bill of indictment at the Central Criminal Court was on the

— day of — instant, found against A. B. of —, in the county aforesaid, for wilful and corrupt perjury, in the testimony which he gave upon oath, as a witness at the trial of a certain cause between C. D. plaintiff, and E. F. defendant, in the Court of Queen's Bench, at the Guildhall of the city of London, on the — day of —, last: These are to command you, the said constable, in her Majesty's name, forthwith to apprehend the said A. B., and him safely to convey and deliver into the custody of the keeper of the said common gaol. And you, the said keeper, are hereby required to receive the said A. B. into your custody in the same common gaol, and him there safely to keep, until he shall be thence delivered by due course of law. Herein fail you not. Given under my hand and seal this — day of —, A. D. 1842.

—◆—
Personating—See **False Personation**.

—◆—
Picking Pockets—See **Robbery**.

—◆—
Pigeons.

By 7 & 8 Geo. 4, c. 29, s. 33, if any person shall unlawfully kill, wound, or take any *house-dove* or *pigeon*, under such circumstances as shall not amount to larceny at common law, he shall, on conviction before a justice, forfeit and pay, over and above the value of the bird, not exceeding 2*l.*; which (by *sect. 66*) is to go to the party aggrieved, if he has not been examined in support of the offence; and if so, then to be paid over to the county rate. And by *sect. 67*, in default of payment, the party may be committed, with or without hard labour, not exceeding two calendar months.

For the proceedings under summary conviction, see *ante* **Betr.**

—◆—
Piles—See **Banks of Rivers**.

—◆—
Pilots.

PENALTY on unqualified Persons acting as Pilots.]—By 6 Geo. 4, c. 125, s. 3, no person shall take charge, as a pilot, of any ship or vessel drawing more than fourteen feet water in the rivers *Thames* or *Medway*, or any of the channels leading thereto or therefrom, until he shall have acted as a licensed pilot for three years, and shall have been after such three years, on re-examination, approved of in that behalf by the corporation of the Trinity House, on pain of forfeiting 10*l.*, as well by the person acting as such pilot, as also by

the master, or other person having the command of the vessel, who shall permit any such person to take charge, as a pilot of the same.

Pilots to pay Dues.]—By *sect. 4*, every licensed pilot, except only those licensed by the Trinity House, upon their receiving certificates of examination by any sub-commissioners of pilotage, in lieu and satisfaction of all ancient and accustomed duties payable to the Trinity House, shall pay the sum of three guineas in the month of January yearly; and every pilot so licensed, as well upon receiving such certificates as aforesaid, as otherwise howsoever, shall also pay to the Trinity House a certain poundage of sixpence in the pound upon all the pilotage earned by him, on pain of forfeiture, for default of any of such payments, or for any concealment or fraud therein or relating thereto, double the amount payable, and of being suspended or dismissed from acting as a pilot, at the discretion of the Trinity House; which payments shall be carried to and applied to the purposes of the pilots' fund.

Penalty for receiving or paying improper Rates of Pilotage.]—By *sect. 8*, the Trinity House may establish certain rates for pilotage, printed tables of which are to be hung up at the custom houses of the several ports. And no greater or less rates, or other reward or emolument for pilotage, shall, under any pretence whatever, be demanded, solicited, received, paid, or offered, on pain of forfeiting 10*l.* for every such offence, as well by the person demanding, soliciting, or receiving, as by the person paying or offering the same. But ships returning by distress of weather, contrary winds, or on account of accident, into ports in the districts of the Isle of *Wight*, *Plymouth*, and *Falmouth*, shall be subject to pay one half of the common pilotage in those ports.

Unlawfully acting as a Cinque Port Pilot.]—By *sect. 15*, no person shall take charge of any ship or vessel, as a pilot belonging to the society or fellowship of pilots of *Dover*, *Deal*, and the Isle of *Thanet*, commonly called *Cinque Port* pilots, before he shall be examined by the master and two wardens, or by four wardens of the said society, touching his abilities, and shall be approved and admitted into the society or fellowship of the Trinity House of *Dover*, *Deal* and the Isle of *Thanet* by the lord warden of the *Cinque Ports* and constable of *Dover* Castle, or his lieutenant; under the penalty for a first offence of 10*l.*, for the second 20*l.*, and for every other offence 40*l.*

Taking charge of Ships drawing more than certain Water.—By sect. 16, no person acting as a *Cinque Port* pilot shall be allowed to take charge of any ship or vessel drawing more than eleven feet six inches water, until he shall have been licensed and acted as a pilot for three years; or of any ship drawing more than fourteen feet water, until he shall have been so licensed and acted for five years; or of any ship drawing more than seventeen feet water, until he shall have been so licensed and acted for seven years. At the expiration of such period of seven years, such pilot shall be again examined as to his fitness and competency; and if he shall be approved of, and licensed on such examination, he shall be then authorized to take charge of any ships or vessels of any draught of water.

Duty of Cinque Port Pilots, in plying for Ships, &c.—By sect. 18, a sufficient number of *Cinque Port* pilots, not less than eighteen at any one time, and in succession from time to time, without intermission or any unnecessary delay, shall at all seasonable times by day and night constantly ply at sea or be afloat between the *South Foreland* and *Dungeness*, to take charge of ships and vessels coming from the westward; and shall not allow any vessel, having a signal for a pilot flying, to pass without attempting to board her. And, upon proper signals being made from signal houses on commanding situations near to *Dover*, giving notice of the approach of any fleet of ships coming from the westward, all *Cinque Port* pilots not on duty at the time shall, according to the rules and regulations made in that behalf, forthwith prepare to go afloat, and shall go off in sufficient time to fall in with such ships; on pain of forfeiting, for the first offence, the sum of 20*l.*; for the second the offender shall be suspended from acting as a pilot for twelve months; and for the third offence shall forfeit his licence, and be rendered thereby incapable of acting thereafter as a pilot.

Duty of Masters of Ships.—By sect. 19, the master, or other person having the command, of any ship or vessel coming from the westward, and bound to any place in the rivers *Thames* or *Medway*, not having a duly qualified *Cinque Port* pilot on board, shall, on the arrival of such vessel off *Dungeness*, and until she shall have passed the south buoy of the *Brake*, or a line to be drawn from *Sandown Castle* to the said buoy, or have been at anchor for one hour, display and keep flying the usual signal for a pilot to come on board; and if any duly qualified *Cinque Port* pilot shall be within hail or approaching and within half a mile, with the proper distinguishing flag flying in his vessel or boat, the master of the vessel, shall, by heaving to in

proper time, or shortening sail, or by all practicable means consistently with the safety of the ship, facilitate such pilot getting on board, and shall give to him the charge of piloting his ship; and every person commanding any such ship or vessel, who shall make default in any of these particulars shall forfeit and pay double the amount of the sum which would have been demanded for the pilotage of such ship. But if any ship coming from the westward, and bound to any place in the rivers *Thames* or *Medway*, shall anchor any where in the *Docks* between the *South Foreland* and a line drawn from *Sandown Castle* to the south buoy of the *Brake*, having any licensed pilot, other than a duly qualified *Cinque Port* pilot, on board, it shall not be necessary for the master of such ship to display the usual signal for a pilot to come on board, any longer than one hour after the vessel shall have so anchored. But any duly qualified *Cinque Port* pilot, at any time before the vessel shall have been at anchor one hour, with such signal flying as aforesaid, may repair on board and take charge of her up the said rivers, but not otherwise.

Penalty for receiving or paying improper Rates of Pilotage up the Thames or Medway.—By *sect. 25*, the rates enumerated in the table marked (A) in the schedule (A) may be demanded by any pilot licensed by the Trinity House, and the respective rates or prices enumerated in the table marked (B) in such schedule, may be demanded by any pilot licensed by the lord warden of the *Cinque Ports*, or his lieutenant, for piloting any ship from place to place, as expressed in those tables respectively; and no greater or lesser rates, or other reward or emolument, shall, under any pretence whatsoever, be demanded, solicited, received, paid, or offered than such rates or prices; on pain of forfeiting 10*l.* for every such offence, as well by the person demanding, soliciting, or receiving, as also by the person paying or offering such greater or less rate or price.

Rates may be varied.—By *sect. 26*, those rates, however, may be varied by the Trinity House and the lord warden of the *Cinque Ports* respectively, with the consent of the Privy Council, of which notice must be given by hanging up printed tables in the Custom House and Trinity House; and the same penalty is imposed for demanding or paying any greater or less rates than the altered rates or prices.

How Pilot Boats to be distinguished.—By *sect. 32*, every pilot boat must at all times, and on every station, be fitted with black sides, and have the upper streak next the gunwale painted white, and must

while afloat carry a flag at the mast head, or on a sprit or staff, or in some other equally conspicuous situation, which flag must be of large dimensions proportioned to the size of the boat, and be half red and half white, in horizontal stripes, of which the uppermost shall be white; and the same must at all times be kept and preserved in a clean and distinct condition, so as to be easily discerned at a proper and sufficient distance. Every such boat must also have the name of the principal pilot thereof for the time being painted in broad white letters of three inches in length on a black ground on her stern, and on each bow such number as shall be expressed in the licence of such principal pilot, which name and number shall not be hid or concealed by any person at any time; on pain of forfeiting, for the omission or evasion of any of these provisions, the sum of 20*l.*, to be paid by the senior pilot on board, who is declared answerable for the due observance of the above matters by every person on board. And in case any pilot shall be carried off in any boat, not a regular pilot boat, he shall exhibit a similar flag at the mast head, or on a sprit or staff, to distinguish that such boat has a pilot on board, under the like penalty, unless he shall show reasonable cause for having omitted to exhibit such flag.

Penalty for carrying a distinguishing Flag, without a Pilot.—By sect. 33, if any boat, not having a licensed pilot on board, shall, without lawful authority, carry such distinguishing flag, the owner, or the master, or other person having charge of such boat, incurs a penalty of 100*l.*

Pilotage into and out of Ramsgate Harbour, &c.—By sect. 39, after reciting that certain harbours near the *Downs* have become much frequented as places of safety, and that ships and vessels lying in or sailing through the *Downs* are oftentimes compelled to run for those harbours, and that it was therefore necessary to make provision for the pilotage into and out of such harbours; it is enacted, that all pilots, whose licences shall authorize them to pilot vessels from any place to the westward up to London Bridge, shall qualify themselves, and shall be examined as to their qualification and ability to conduct any ship or vessel into and out of *Ramsgate Harbour*, and the harbours of *Dover*, *Sandwich*, and *Margate*, and shall be obliged to pilot any vessels into and out of those harbours; and if any such pilot shall refuse to take charge of or conduct any ship or vessel into or out of any of such harbours, he shall forfeit all pay and reward to which he might otherwise have been entitled, for the pilotage of such

vessel, and shall be subject to such fine, or other punishment, as shall be established by the bye-laws, rules, orders, regulations or ordinances of the corporation or other authority, from which the licence of such pilot shall have been derived.

Pilots quitting Ships in the Thames or Medway.—By sect. 42, if any pilot taking charge of any vessel into the river *Thames* or *Medway* shall quit the ship before she shall have arrived at the place to which she is bound, without the consent of the captain or other person having the command thereof, unless some other duly qualified pilot shall with such consent come on board, and shall take the charge and conduct of the ship for the residue of the pilotage to be performed, he shall forfeit for every such offence all pay or reward for pilotage, and shall also be subject to such other penalty, as by virtue of any of the provisions of the act he shall be liable to for quitting a ship before she shall arrive at her place of destination.

Pilot to insert his Name in Log Book, &c.—By sect. 43, every pilot shall write his Christian and surname in the log book of every vessel entering the port of *London* and required to be piloted, according to the directions of the act; and every pilot or other person inserting a false name shall forfeit the sum of 20*l.* The master or other person having the command of such ship shall, in making the entry or report of such vessel inwards, insert therein the name of the pilot employed to pilot such vessel into the said port; which insertion shall be made in the said entry or report (without fee or reward) by the proper officer of the customs, who shall report the same to the corporation of the Trinity House daily, and to the lord warden of the *Cinque Ports* monthly; and such officer is required to reject such entry or report, unless the name of the pilot shall be inserted, or notified to such officer for insertion, in such entry or report; and also the principal searcher or clearing officer of the customs at *Gravesend* shall demand and take the names of the pilots of all ships clearing outwards from the port of *London*, and shall transmit monthly lists of such names to the Trinity House; on pain of forfeiting a sum not exceeding 10*l.*, nor less than 5*l.*, to be paid by each and every of the persons aforesaid, who shall neglect to comply with any of the foregoing regulations.

Penalty for employing any other than a licensed Pilot.—By sect. 58, every master of a ship, who shall act himself as a pilot, or who shall employ as a pilot any unlicensed person, or any licensed person acting out of the limits for which he is qualified, or beyond the extent

of his qualification, after any pilot properly licensed and qualified shall have offered to take charge of such ship, or have made a signal for that purpose, shall forfeit double the amount which would have been legally demandable for pilotage, and shall likewise forfeit for every such offence an additional penalty of 5*l.* for every fifty tons burden of such ship; if the Trinity House, as to cases in which pilots licensed by them are concerned,—or the lord warden, as to cases in which the Cinque Port pilots are concerned,—shall think it proper that the person prosecuting should be at liberty to proceed for the recovery of such additional penalty, and certify the same in writing.

The master of a ship, however, is not liable to the penalty imposed by this section, unless the pilot produces his licence, as required by *sect. 66 (p)*.

When unlicensed persons may be employed.—By *sect. 61*, nothing shall extend to subject the master or owner of any ship to a penalty for employing any person as a pilot, for assistance whilst the ship shall be in distress, or in consequence thereof, or under any circumstances which shall have rendered it necessary for such owner or master to avail himself of the best assistance which at the time could be procured.

When the Master may pilot his own Ship.—By *sect. 62*, nothing shall extend to subject to any penalty the master or mate of any ship or vessel, being the owner or a part owner thereof, and residing at *Dover, Deal*, or the Isle of *Thanet*, for conducting or piloting such his own ship or vessel from any of these places up or down the rivers *Thames* or *Medway*, or into or out of any port or place within the jurisdiction of the *Cinque Ports*.

False statement of Vessel's Draught.—By *sect. 64*, every master or other person having the command of any vessel, who shall report, or be privy or consenting to any other person's reporting, to any pilot taking the charge of such vessel a false account of her draught of water, shall forfeit and pay, in addition to the full rate of pilotage, to the pilot entitled thereto, double the amount of such pilotage.

Pilot to produce his Licence.—By *sect. 66*, no person shall in any manner act as a pilot, until his licence shall have been registered at the custom house of the place at or nearest to which he shall reside, nor without having his licence in his personal custody, and producing the same to the master of any ship or other person who shall be de-

sirous of employing him as a pilot, or to whom he shall offer his services; on pain of forfeiting not exceeding 30*l.*, nor less than 10*l.*, for the first offence; and for any subsequent offence, not exceeding 50*l.*, nor less than 30*l.*, and upon further pain of forfeiting his licence, or being suspended from acting as a pilot, at the discretion of the authority from which such pilot's licence was derived.

. *When Licence to be delivered up.*—By sect. 67, every pilot shall at all times when thereunto required produce or deliver and yield up his licence to the Trinity House, or other authority by which the same was granted; and on his death his executors or administrators, or the person to whose hands the licence shall come, shall, without wilful delay, transmit it to the corporation, or other authority by which the same was granted, under a penalty not exceeding 20*l.*, nor less than 40*s.*

Pilots keeping Public-houses, or offending against Revenue Laws.—By sect. 68, if any pilot shall keep, or be concerned in keeping, either by himself, or any agent or servant or other person, or shall in any way be interested in the keeping of, any public-house or tavern, or place of public entertainment, or in the selling of any wine or spirituous liquors, or tobacco, or tea; or if any pilot shall be convicted of any offence against the customs or excise, or shall be concerned in, or shall wilfully connive at, any indirect practices or frauds against the customs or excise, or shall procure, abet, connive at, or participate in any destruction, spoil, or concealment, fraud, exaction, or corrupt practice, relating to ships or vessels or persons in distress at sea or by shipwreck, or relating to the tackle, apparel, furniture, or the cargoes of such ships or vessels, or relating to the crew or passengers belonging thereto, or the monies, goods or chattels of any of them, then (over and above all other punishments) he shall be adjudged to forfeit his licence, or shall be suspended from acting as a pilot, at the discretion of the corporation or other authority from which his licence was derived.

Suspended Pilots acting.—By sect. 69, if any person suspended, or adjudged to have forfeited his licence as a pilot, shall, during the time of such suspension, or after such adjudication, take upon himself to conduct any ship or vessel as a pilot, such person shall be liable to all such penalties as are provided against persons acting without a licence.

Unlicensed Persons acting as Pilots.—By sect. 70, any licensed pilot, within the limits of his licence and the extent of his qualification

therein expressed, may supersede in the charge of any ship any person not licensed to act as a pilot, or not licensed so to act within such limits, or acting beyond the extent of his qualification; and every person continuing in the charge of any ship, without being a duly licensed pilot, or without being duly licensed to act within the limits in which such ship shall actually be, or beyond the extent of his qualification as expressed in his licence, after any pilot duly licensed and qualified shall have offered to take charge of the vessel, shall forfeit not exceeding 50*l.*, nor less than 20*l.*

Pilots declining to go off to Vessels, &c.—By sect. 72, every pilot who shall, when not actually engaged in his capacity of pilot, refuse or decline or wilfully delay to go off to, or on board of, or to take charge of, any ship wanting a pilot, and within the limits specified in his licence, and of which he shall be qualified to take charge, upon the usual signal for a pilot being displayed from such vessel, or upon being required so to do by the captain, or by any commissioned or warrant officer of such vessel, if the same shall be in his Majesty's service,—and if not, then by the master, or other person having the command of the vessel, or by any person interested therein as principal or agent,—or upon being required so to do in either of these cases by any officer of the society to which such pilot shall belong, or by any principal officer of the customs (unless in any of such cases it shall be unsafe for such pilot to obey such signal or comply with such requisition, or he shall be prevented from so doing by illness, or other sufficient cause to be shown by him in that behalf); and every pilot, who shall on any frivolous pretext quit any ship, or decline the piloting thereof, after he has been engaged to pilot the same, or after going alongside thereof, before the service shall have been performed for which he was hired, and without leave of the captain of such ship (if in his Majesty's service), or of the master or other person having the command (if not in his Majesty's service), shall forfeit for every such offence any sum not exceeding 100*l.*, nor less than 10*l.*, and shall be liable to be dismissed from being a pilot, or suspended from acting as such, at the discretion of the corporation or other authority by whom such pilot was licensed.

Pilots unnecessarily employing Boats, &c.—By sect. 73, in case any pilot shall employ or make use of, or shall compel or require any person having the command or charge of any ship to employ or make use of, any boat, anchor, cable, hawser, or any other thing, in or for the service or pretended service of such ship, beyond what

shall actually and *bonâ fide* be necessary and proper for the use thereof, with intent thereby to enhance or increase the charge or expence of pilotage or pilot assistance of such ship, whether for his own gain, or for that of any other person, shall forfeit not exceeding 50*l.*, nor less than 10*l.*, and shall also be liable to be deprived of his licence, or suspended from acting as a pilot, at the discretion of the corporation or other authority by whom he was licensed.

Penalty for lending Licence, Drunkenness, &c.—By *sect. 74*, in case any pilot shall lend his licence to any unlicensed person, to assist him in acting or claiming to act as a licensed pilot; or in case any licensed pilot, or any person acting under any pretext of being a pilot, shall by drunkenness render himself incapable of conducting any ship, or shall wilfully or negligently run any ship on shore, or lose or injure the same, or the tackle or furniture thereof; or shall wilfully and knowingly conduct, lead, decoy, or betray any ship or vessel into danger in any manner not already provided against by any statute, or shall unnecessarily or improperly cut any cable belonging to any vessel, or cause or procure the same to be done; or if any such person shall, by wilful misrepresentation of any circumstances upon which the safety of any vessel shall appear materially to depend, obtain or endeavour to obtain the charge and conduct of any such vessel; every such offender, or any person who shall aid in, procure, abet, or connive at, the committing of any such offence, shall, besides being liable to damages at the suit of the party grieved, forfeit not exceeding 100*l.*, nor less than 20*l.*; and if the offender be a pilot, he shall also be liable to be deprived of his licence, or suspended from acting as a pilot, at the discretion of the corporation or other authority by whom his licence was granted.

Disobeying Orders of Dock-masters.—By *sect. 75*, if any pilot having the charge of any ship within the statutable distance from the entrance into any docks from the river *Thames*, and either intended to go into or having recently come out of such docks, shall neglect or refuse to obey the directions of the dock-master under the powers vested in him by any act of parliament, touching or relating to the mooring, unmooring, moving, or removing of the ship under the charge of such pilot, he shall forfeit not exceeding 50*l.*, nor less than 20*l.*; and be also liable to be dismissed from being a pilot, or suspended, at the discretion of the corporation or other authority by whom he was licensed.

Recovery of Penalties, &c.—By *sect. 77*, all penalties not exceed-

ing 20*l.*,—and likewise all penalties, where the lowest not being greater than 20*l.*, and the largest being greater than 20*l.*, the prosecutor shall proceed for a sum not exceeding 20*l.*, with the written consent of the Trinity House, or the lord warden of the *Cinque Ports*,—may be recovered, within six calendar months after the offence, before any justice where the offence is committed,—or if committed by any pilot, then either before such justice, or any justice of the port to which the pilot shall belong,—or if committed by any owner or master of a ship, then before any justice where the offence is committed, or before any justice of the port or place where the master or owner shall reside, or to which the ship shall belong,—or if committed on any part of the sea from *Orfordness* or *Dungeness* to the mouth of the river *Thames*, or upon the *Thames* or *Medway*, then only before some justice of the counties of *Kent*, *Surrey*, *Essex*, or *Middlesex*, or some magistrate of the city of *London*. The justice may issue a warrant in the first instance, and the conviction may be on the oath of one witness. The penalty to be levied by distress, for want of which, commitment not exceeding six months, nor less than twenty-one days. But in case the period of six calendar months shall elapse before any prosecution is commenced, and it shall be made to appear that the prosecution has been delayed by reason of the absence of the party offending or complaining, or by the absence of any necessary witness, then, upon affidavit of such circumstances before a judge, the judge may order the commencement of the prosecution within such further time as he shall think fit.

And by *sects. 44, 46*, all sums due for pilotage not exceeding 20*l.* may be recovered and levied in like manner, demand thereof being made in writing fourteen days before the levy.

By *sect. 78*, the justice of any county into which an offender may escape may indorse the original warrant, which shall authorize peace officers to execute it.

By *sect. 79*, if any person, who shall be summoned as a witness, shall refuse or neglect to appear, without any just cause, the justice, on proof of such summons having been served, and of a tender of reasonable expences having been made to such person on his being served with such summons, may issue a warrant to bring such person before him; and if, on appearance, or on being brought before any justice, he shall refuse to be examined, without just cause for such refusal, the justice may commit him to the house of correction not exceeding six weeks, nor less than ten days.

Appeal, &c.—By *sect. 81*, a general form of conviction is given;

and by *sect. 82*, an appeal to the quarter sessions, on giving ten days' notice to the party appealed against. No proceedings to be quashed for want of form, or be removable by *certiorari*.

By *sect. 83*, one-third of all penalties to go to the informer, and the remainder to the pilots' fund.

Saving Clause.—By *sect. 88*, nothing in the act contained is to prejudice the jurisdiction of the lord mayor of *London*, or the corporation of the city of *London*, to, in and upon the river *Thames*; nor (by *sect. 89*) the privileges granted by any charters or acts of parliament to the pilots of the Trinity Houses of *Kingston-upon-Hull*, or *Newcastle-upon-Tyne*, nor to give any authority to the Trinity House of *Deptford Strond*, within any ports or districts having separate jurisdictions in matters of pilotage; nor to alter or repeal any provisions contained in any act of parliament relating to the pilots of any particular ports or districts.

Injuring Buoys and Beacons.—By *sect. 91*, every person who shall ride by, make fast to, or remove, or wilfully run down, or run foul of, any vessel appointed or placed to exhibit lights, or any buoy or beacon belonging to the Trinity House, or belonging to or placed by any other corporation having lawful authority to place the same, shall, besides making good any damage occasioned thereby, forfeit not exceeding 50*l.*, nor less than 10*l.*

Foreign Vessels.—By 3 & 4 Vict. c. 68, s. 1, her Majesty in council may authorize ships belonging to countries having treaties of reciprocity with the united kingdom to be piloted in certain cases, without having a licensed pilot.

Painting Pilot Vessels.—By *sect. 2*, so much of the 6 Geo. 4, c. 125, s. 32 (for the prevention of smuggling) as relates to the mode of painting pilot vessels is repealed, and every such boat or vessel is required to be painted or tared entirely black, except the name or other description required by law to be painted on such boat or vessel.

1. *Conviction of an Unlicensed Person, for continuing in the charge of a Ship as a Pilot, after a Licensed Pilot had offered to take charge of her, under the 6 Geo. 4, c. 115, s. 70 (g).*

London, } Be it remembered, that on the — day of —, in the year of our Lord
to wit. } 1842, at the Mansion House in the city of London, A. B., of &c., mariner,
is convicted before me W. P., esquire, lord mayor of the said city, and one of her
Majesty's justices of the peace for the said city, for that he the said A. B. within six
calendar months now last past, to wit, on the — day of — last, at Gravesend in

(g) See *ante*, p. 663. This form of conviction is given by the 81st section of the act.

the port of London aforesaid, he the said A. B. not being then and there a duly licensed pilot, did assume the charge and conduct of a certain ship called the Aurora, and did then and there continue in the charge and conduct of the said ship, after one C. D., a pilot then and there duly licensed and qualified to act in the premises, had offered (r) to the said A. B. (he the said A. B. then and there being the person in charge of the said ship) to take charge of the said ship as such pilot; contrary to an act passed in the sixth year of the reign of King George the Fourth, intituled "An Act for the Amendment of the Law respecting Pilots and Pilotage, and also for the better preservation of Floating Lights, Buoys, and Beacons;" and I do adjudge that the said A. B. hath therefore forfeited the sum of 20*l.* of lawful money of Great Britain, to be distributed under the directions of the said act. Given under my hand and seal, the day and year first above written.

2. *Conviction of the Master of a Ship, under sect. 58, for acting himself as a Pilot, after a Licensed Pilot had made a Signal for that purpose (s).*

London, } Be it remembered, &c. [as in form No. 1]: For that he the said A. B.,
to wit, } within six calendar months now last past, to wit, on the — day of —,
in the year aforesaid, was the master and commander of a certain ship called The Calypso, and was then navigating the said ship near to the mouth (t) of the river Thames, that is to say, within sight of the port of Deal in the county of Kent, and that whilst the said A. B. was so navigating the said ship, C. D., a pilot duly licensed and qualified to act as such, according to the form of the statute in such case made and provided, within the limits in which such ship then actually was, made a signal, according to the requisitions of the said statute, that he was willing and desirous of taking charge of the said ship, which signal could be plainly seen by the said A. B. and the rest of the crew on board the said ship; but the said A. B., disregarding the said signal and his duty in that behalf, acted himself as a pilot in navigating the said ship from off Deal as aforesaid to the port of London, contrary to an act &c. [as in form No. 1]; and I do adjudge that the said A. B. hath forfeited for his said offence the sum of £—, being double the amount of the sum which would have been legally due for pilotage (u).

(r) The conviction will be bad, if it do not allege that the offer was made to, or in the presence of, the party in charge of the vessel, or that it otherwise came to his knowledge. It ought also to appear in the conviction, that the defendant was the person in charge of the vessel when the offer was made; and it seems that this does not sufficiently appear from an allegation that he "continued" in charge of it after the offer; *Chancy v. Payne*, 1 Gale & D. 348. Although the consent of the warden of the Cinque Ports, or of the Trinity House Corporation, respectively, is required before proceeding to recover penalties under the Pilot Act, it is not necessary that such consent should appear in the conviction; which is sufficient in that respect, if it follow the form given by that

statute; *ibid.*

(s) See *ante*, p. 661.

(t) See *sect. 77, ante*, p. 665.

(u) The offender is also liable to an additional penalty of 5*l.* for every fifty tons burthen of the ship, if the Trinity House, or the lord warden of the Cinque Ports, permit the prosecutor to proceed for this additional penalty.

It appears from the case of *Hammond v. Blake*, 10 B. & C. 424, that the master of the ship is not liable to the penalties (under the 58th section) for refusing to employ a pilot, upon the pilot offering to take charge of the vessel, unless the pilot produces his licence as required by *sect. 66*. But the non-production of the licence will not be a justification for the master disregarding the pilot's signal.

3. *Conviction of a Pilot, under sect. 72, for declining to go off to take charge of a Vessel* (x).

Kent, } Be it remembered, that on the — day of —, in the year of our
to wit. } Lord 1842, at Deal in the county of Kent, A. B., of Deal aforesaid,
mariner, is convicted before me, C. H., esquire, one of her Majesty's justices of the
peace in and for the said county; for that the said A. B., within six calendar months
now last past, to wit, on the — day of — last, at Deal aforesaid, he the said
A. B. being then and there a pilot duly licensed according to the form of the statute
in such case made and provided, and got then actually engaged in his capacity of pilot,
did refuse and decline to go off, or on board of, or to take charge of, a certain ship
called "The Victoria," then and there wanting a pilot, and then and there being within
the limits specified in the licence of the said A. B., and of which he was qualified to
take charge, after the usual signal for a pilot had been displayed from such ship, not-
withstanding it was not then unsafe for the said A. B. to obey such signal, and he was
not then and there prevented from so doing by illness, or other sufficient cause, contrary
to an act passed &c. [as in form No. 1] (y).

Piracy.

WHEN Capital.—By 7 Will. 4 & 1 Vict. c. 88, whosoever, with intent to commit, or at the time of, or immediately before, or immediately after, committing the crime of piracy in respect of any ship or vessel, shall assault, with intent to murder, any person being on board of, or belonging to, such ship or vessel; or shall stab, cut, or wound any such person, or unlawfully do any act by which the life of such person may be endangered; *Felony; Death.*

When not.—By sect. 3, whosoever shall be convicted of any offence, which by the acts therein referred to amounts to the crime of *Piracy*, and is by those acts made punishable with death, is declared to be punishable with *Transportation for life, or not less than fifteen years; or imprisonment not exceeding three years, with or without hard labour and solitary confinement.*

By sect. 4, every principal in the second degree, and every accessory before the fact, is punishable in the same manner as the principal in the first degree; and every accessory after the fact is liable to imprisonment not exceeding two years, with or without hard labour and solitary confinement.

(x) See *ante*, p. 664.

(y) The penalty in this case is not exceeding 100*l.*, nor less than 10*l.*, and he is also liable to be dismissed from being a

pilot, or to be suspended; but no penalty above 20*l.* can be inflicted on summary conviction. See sect. 77, *ante*, p. 666.

The statutes referred to by the above act, which declare different offences to be *piracy*, are as follows:—

28 Hen. 8, c. 15, which comprehends all treasons, felonies, robberies, murders, and confederacies, committed in or upon the sea, or in any haven, river, creek, or place, where the admiral has, or pretends to have, jurisdiction..

11 & 12 Will. 3, c. 7, s. 8, (made perpetual by 6 Geo. 1, c. 19,) which declares, that if any natural born subjects or denizens of this kingdom shall commit any robbery, or any act of hostility, against others of his Majesty's subjects, upon the sea, under colour of any commission from any foreign prince or state, or pretence of authority from any person whatsoever, the offenders shall be deemed to be *pirates*.

By sect. 9, if any commander or master of any ship, or any seaman or mariner, shall, in any place where the admiral has jurisdiction, betray his trust and turn pirate, enemy, or rebel, and piratically and feloniously run away with his ship, or any barge, boat, ordnance, ammunition, goods, or merchandises, or yield them up voluntarily to any pirate, or shall bring any seducing messages from any pirate, enemy, or rebel, or consult, combine, or confederate with, or attempt or endeavour to corrupt any commander, master, officer, or mariner, to yield up or run away with any ship, goods, or merchandises, or turn pirate, or go over to pirates; or if any person shall lay violent hands on his commander, whereby to hinder him from fighting in defence of his ship and goods committed to his trust, or that shall confine his master, or make, or endeavour to make, a revolt in the ship,—shall be adjudged to be a *pirate, felon, and robber*.

By sect. 10, every person who shall, either on the land, or upon the seas, knowingly or willingly set forth any pirate, or aid and assist, or maintain, procure, command, counsel, or advise any person whatsoever to do or commit any piracies or robberies upon the seas, shall be adjudged to be *accessory* to such piracy and robbery. And every person, who, knowing that another has committed any piracy, shall on the land or upon the sea, receive, entertain, or conceal any such pirate, or receive or take into his custody any ship, vessel, goods, or chattels, which have been by any such pirate piratically and feloniously taken, shall also be adjudged *accessory* to such piracy, and suffer the same punishment as principals.

8 Geo. 1, c. 24, s. 1, (made perpetual by 2 Geo. 2, c. 28, s. 7,) which enacts, that if any commander or master of any ship, or any other person, shall in anywise trade with any pirate, by truck, barter,

exchange, or in any other manner; or shall furnish any pirate, felon, or robber upon the sea, with any ammunition, provision, or stores of any kind; or shall fit out any vessel knowingly and with a design to trade with or supply, or correspond with any pirate, felon, or robber on the seas, knowing him to be guilty of any such piracy, &c.; every such offender shall be adjudged guilty of *piracy*; &c. And if any persons belonging to any ship or vessel, upon meeting any merchant ship upon the high seas, or in any port, haven, or creek whatsoever, shall forcibly board or enter it, and (though they do not seize or carry off the same) shall throw overboard or destroy any part of the goods or merchandises belonging thereto; the offenders shall be punished as *pirates*.

By *sect. 2*, every vessel fitted out to trade with pirates, as well as the goods laden therein, shall be forfeited, half to the crown, and half to the informer.

By *sect. 3*, every person, who by the 11 & 12 Will. 3, c. 7, is declared to be accessory to any piracy, is declared to be a principal pirate, and may be tried in the same manner as a principal.

By 5 Geo. 4, c. 113, s. 9, carrying away, conveying, or removing slaves on the high seas, is also declared to be *piracy*; for which see *post*, *Slave Trade*.

Plants—See Gardens.

Players and Playhouses.

ACTING without a Licence.—By 10 Geo. 2, c. 28, s. 1, every person, who shall for hire, gain, or reward, act, represent, or perform, or cause to be acted, represented or performed, any interlude, tragedy, comedy, opera, play, farce, or other entertainment of the stage (*y*), or any part therein, in case he shall not have any legal settlement in the place where the same shall be acted, without authority by letters patent from the crown, or without licence from the lord chamberlain, shall be deemed to be a *rogue and vagabond*, and punishable as such.

By *sect. 2*, if any person having, or not having, a legal settlement as aforesaid, shall, without such authority or licence, act, represent, or perform, or cause &c., for hire, gain, or reward, any interlude, &c., or other entertainment of the stage, or any part therein; penalty 50*l*.

(*y*) *Tumbling* is not an "entertainment of the stage" within the meaning of the act; *R. v. Handy*, 6 T. R. 286.

New Play, &c. to be sent to Lord Chamberlain.—By *sect. 3*, no person shall for hire &c., act &c., or cause &c., any new interlude &c., or any part therein, or any new act, scene, or other part added to any old interlude &c., or any new prologue, or epilogue, unless a true copy be sent to the lord chamberlain fourteen days previously, together with an account of the playhouse or other place, where the same shall be, and the time when the same is intended to be first acted &c., signed by the master or manager of the playhouse or company of actors.

Acting against the prohibition of the Lord Chamberlain.—By *sect. 4*, the lord chamberlain may prohibit the acting, performing or representing any interlude &c., or other entertainment of the stage, or any act, scene, or part thereof, or any prologue or epilogue; and in case any person shall, for hire, gain, or reward, act, perform, or represent, or cause &c., any new interlude &c., or any act, scene, or part thereof, or any new prologue or epilogue, before a copy thereof shall be sent with such account as aforesaid; or shall for hire, gain, or reward, act &c., or cause &c., any interlude &c., or any act, scene, or part thereof, or any prologue or epilogue, contrary to such prohibition; penalty 50*l.*; and forfeiture of his licence.

Patent or Licence only to extend to Westminster, &c.—By *sect. 5*, no person shall be authorized by any letters patent, or by the licence of the lord chamberlain, to act, represent, or perform for hire, gain, or reward, any interlude &c., except in the city of Westminster, and in such places where the sovereign shall personally reside, and during such residence only (z).

Recovery and application of Penalties.—By *sect. 6*, all the penalties may be recovered either by action, or in a summary way before two justices by the oath of one credible witness, to be levied by *distress*, in default of which the offender may be committed to the house of correction, not exceeding six months, to hard labour, or to the common gaol not exceeding six months. *Appeal* to the next quarter sessions. One moiety of the penalty to go to the informer, and the other to the poor.

Acting in Public Houses.—By *sect. 7*, if any interlude &c., or any act, scene, or part thereof shall be acted, represented, or performed in any house or place where wine, ale, beer, or other liquors

(z) The exempting power in this section does not prevent the prohibition in *sect. 2* from extending to the rest of the kingdom. *R. v. Neville*, 1 B. & Adol. 489.

shall be sold or retailed, the same shall be deemed to be acted, represented, or performed, for gain, hire, and reward.

By *sect. 8*, prosecutions must be commenced within six calendar months after the commission of the offence.

When Licences may be granted by the Sessions.—By 28 Geo. 3, c. 30, s. 1, the quarter sessions may grant a licence for the performance of such tragedies, comedies, interludes, operas, plays, or farces, as are acted at either of the patent or licensed theatres in the city of Westminster, or as shall have been submitted to the inspection of the lord chamberlain, at any place within their jurisdiction, for any number of days not exceeding sixty, to commence within the next six months, and to be within the space of such four months as may be specified in the licence; so as there be only one licence in use at the same time within the jurisdiction so given, and so as such place be not within twenty miles of the cities of *London, Westminster, or Edinburgh*, or eight miles of any patent or licensed theatre, or ten miles of the residence of the sovereign, or of any place within the same jurisdiction at which, within six months preceding a licence under the act shall have been had and exercised, or within fourteen miles of either of the Universities of *Oxford and Cambridge*, or within two miles of the outward limits of any city, town or place having peculiar jurisdiction; and so, also, as no licence shall have been had and exercised at the same place, within eight months then next preceding.

By *sect. 2*, no such licence shall be granted within any city or town having peculiar jurisdiction, without the consent of the majority of the justices acting for such jurisdiction, nor (by *sect. 3*) unless three weeks notice be given to the mayor, or other chief civil officer, previous to the application for a licence.

A conviction under the first mentioned act of 10 Geo. 2, c. 28, s. 2, for performing, without a patent or licence from the lord chamberlain, at any place in England, is good; it is for the defendant to show, if such be the fact, that he had a licence from the sessions under the last mentioned act of 28 Geo. 3, c. 30 (*a*).

Unlicensed Houses within the Metropolitan Police District.—By 2 & 3 Vict. c. 47, s. 46, where any house or room within the district of the metropolitan police is kept or used for stage plays or

(a) *R. v. Neville*, 1 B. & Ad. 489.

dramatic entertainments, into which admission is obtained by payment of money, and which is not a licensed theatre, the commissioners of police may by order in writing authorize any superintendent of police, with such constables as he may think necessary, to enter therein at any time when the same shall be open for the reception of persons resorting thereto, and to take into custody all persons who shall be found therein without lawful excuse. And every person keeping, using, or knowingly letting any house or other tenement, for the purpose of being used as an unlicensed theatre, is liable to a penalty not more than 20*l.*, or, in the discretion of the magistrate, may be committed to the house of correction, with or without hard labour, not more than two calendar months. Every person performing or being therein, without lawful excuse, is liable to a penalty not more than 40*s.* And a conviction under this act will not exempt the owner, keeper, or manager of any such house, room, or tenement, from any penalty for keeping a disorderly house, or for the nuisance thereby occasioned.

For the proceedings on summary conviction under this act, see *Metropolitan Police*.

Information, on stat. 10 Geo. 2, c. 28, s. 2, for performing a Tragedy at a Theatre, without a Licence.

Middlesex, } Be it remembered, that on this — day of —, in the year of our
to wit. } Lord —; at the public office Bow Street in the parish of Saint Paul,
Covent Garden; in the county of Middlesex, A. B. cometh in his proper person before
—, esquires, two of her Majesty's justices of the peace in and for the said county,
and giveth us the said justices to understand and be informed, that G. H. late of the
parish of Saint Pancras in the county of Middlesex, within six calendar months now
last past, that is to say, on the — day of —, in the year aforesaid, at the parish
last aforesaid, in the said county, in a certain theatre there known by the name of the
— Theatre, without lawful authority by virtue of letters patent from her Majesty,
or any of her Majesty's predecessors, and without licence from the present or any
other lord chamberlain of her Majesty's household, did cause to be acted, represented
and performed, for gain and reward, a certain entertainment of the stage called the
tragedy of Douglas, compressed into three acts, under the name of the Noble Shep-
herd, contrary to the statute in such case made and provided; whereby and by force
of the said statute the said G. H. hath forfeited for his said offence the sum of 50*l.*
of lawful money of Great Britain to be distributed as the law directs: And therefore the
said A. B. prays that the said G. H. may be summoned to answer the said information,
and to be further dealt with according to law. A. B.

Exhibited and taken the day and year }
first above written, before us. }

Poaching—See Game.

Poisoning.

BY 7 Will. 4 & 1 Vict. c. 85, s. 2, whosoever shall *administer* to, or cause to be taken by, any person, any poison, or other destructive thing, with intent to commit murder; *Felony; Death.*

By *sect. 3*, whosoever shall *attempt to administer* to any person any poison, or other destructive thing, with intent to commit murder; *Felony; Transportation for life, or not less than fifteen years; or imprisonment not exceeding three years, with or without hard labour, or solitary confinement.*

By *sect. 6*, whosoever, with the intent to procure the miscarriage of any woman, shall unlawfully *administer* to her, or cause to be taken by her, any poison, or other noxious thing; *Felony, punishable as in the last section.*

Police—See Metropolitan Police; see also Constable, *anté*, 187, and *post*, 1466.

Polygamy—See Bigamy.

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